

ROYAL COURT

199.

29th November, 1989

Before: Commissioner P.R. Le Cras, and  
Jurats Bonn and Hamon

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H.M. Attorney General

- v -

Anthony Paul Lelliott

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Appeal against sentence of three months'  
imprisonment imposed in respect of one  
charge of committing a grave and  
criminal assault.

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Advocate S.C.K. Pallot for the Crown  
Advocate A.J.R. Garner for the Appellant.

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**JUDGMENT**

COMMISSIONER LE CRAS: It is clear and quite rightly so the general rule or practice that where an offender is likely to go to prison for the first time, for the Magistrate to call for a background report. This general rule, as it is described for instance in the case of A.G. -v- De Rosa (23rd May, 1988) Jersey Unreported, is not however invariable. Equally, it is clear as was stated in A.G. -v- Jehan (14th August, 1989) Jersey Unreported, that it is wrong in principle to sentence an offender under the age of 21 to imprisonment unless there are exceptional circumstances which really require

the imposition of a custodial sentence. In this case we have to say that although we think a background report would have been advisable, nonetheless in view of the deplorable nature of Lelliott's record and the necessity of preventing assaults of this nature, we cannot say that the learned Magistrate erred in principle either in failing to call for a report, or imposing a prison sentence notwithstanding the age of the accused.

However, we take into account that you were in the company, Lelliott, of an older man; that you admitted and took responsibility for the attack; and that you have as it would seem made some effort more recently to reform yourself.

Given these considerations we think that three months' imprisonment is, in all the circumstances, excessive and we therefore reduce the sentence to one of two months' imprisonment.

Authorities cited:

A.G. -v- Bowicz P.C. 41 ex. 473.

A.G. -v- Jehan (14th August, 1989) Jersey Unreported.

A.G. -v- De Rosa (23rd May, 1988) Jersey Unreported.

Re: Martin (1985) C.A.R. Vol. 7 pp.39-40.

Re: Jeoffroy et ors (1981) C.A.R. Vol. 3 pp.135-137.