

ROYAL COURT

18th May, 1990

70.

Before: The Bailiff, and  
Jurats Myles and Hamon

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The Attorney General

- v -

Wayne Alfred Baxter

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Application: review of the  
Magistrate's decision on Bail.

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The Solicitor General for the Crown,  
Advocate A.P. Begg for the Applicant.

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JUDGMENT

BAILIFF: This is an application by Mr. Wayne Alfred Baxter for a review, in fact, of the exercise of the learned Magistrate's discretion when, on the 15th May, he was refused bail by the learned Magistrate.

The offence is a serious offence, it is the larceny of a watch from a dwelling house and if proved it discloses that the larceny would have taken place whilst the accused was in a position of trust. So we regard the offence as a serious offence.

There are other matters which of course must be taken into account that is quite clear although we accept from what Mr. Baker said, that the offence is not of the same calibre of seriousness as we have heard in other cases where an application has been made to review the learned Magistrate's decision, for example in Hughes and Wylie.

Nevertheless there are other matters which have to be taken into account. Notably the strength of the case of the prosecution against the accused. As the Solicitor General has said the case is circumstantial but the evidence, he says, is strong. There is the photographic identity; there is the jacket; there is the watch itself, to name but three of the matters upon which the prosecution will rely and we do not express any opinion as to whether of course that would be sufficient to convict, that would be a matter in due course for the Jury. But there is a case which we have to consider in the light of what was before the learned Magistrate. The approach of the learned Magistrate seemed to us to be completely correct. He said that he leaned towards - or words to that effect - the granting of bail; that is the right approach. We, too, adopt that approach whenever we can.

I want to make it perfectly clear, however, that we are not bound to grant bail; it is not mandatory as it is under the Bail Act in England. But we do endeavour and it is quite clear from the transcript that the Magistrate endeavours also to grant bail where he can.

We cannot find in this case that he misdirected himself nor applied wrong principles. This is a review; the Magistrate exercised his discretion; we are satisfied that he took into account all the matters that he had before him which are basically what we had before us with the addition of some of the statements. And indeed had he had the statements which we had before us today that would have strengthened his decision. We cannot therefore say that he misdirected himself or applied the wrong principles and the application is refused.

Authorities

- A.G. -v- Henriette (27th November, 1987) Jersey Unreported.  
A.G. -v- Hervey (26th September, 1988) Jersey Unreported.  
A.G. -v- Wylie & Others (4th August, 1989) Jersey Unreported.  
A.G. -v- Hughes (22nd September, 1989) Jersey Unreported.  
A.G. -v- Makarios (1978) JJ 215.  
D. Barnard, "The Criminal Court in Action" (2nd Edition, 1979)  
p.p. 146-151.