

ROYAL COURT

25th October, 1991 156

Before: The Bailiff, and
Jurats Coutanche and Le Ruez

Attorney General

- v -

David William McDonough
and
Stephen Nicholas Dring

MCDONOUGH

OFFENCES:

- Count 1: Illegal Entry and Larceny (with co-accused)
- Count 5: Breaking and Entering and Larceny
- Count 6: Possession of controlled drug contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978.

PLEA: Guilty

DETAILS OF OFFENCES:

- Count 1: Entry to Jersey Pearl; larceny of jewellery to value of £3,952.30; caught in the act; ran away and later apprehended.
- Count 5: Broke into Fauvic Stores, Grouville at night; stole cigarettes and cash value £697.93.
- Count 6: 4 mgs of cannabis in home-made pipe. Personal use.

DETAILS MITIGATION:

Good employment record till last six months; recognises he drinks too much, wants to make restitution; commercial premises.

PREVIOUS CONVICTIONS:

Juvenile convictions only for dishonesty; break of five years until re-offended; many drunk and public order convictions. Maximum sentence until now one weeks imprisonment.

CONCLUSIONS:

Count 1: 12 months
Count 5: 12 months concurrent
Count 6: 1 week consecutive

SENTENCE AND OBSERVATIONS OF THE COURT:

No reason to distinguish with Dring:

Count 1: 15 months
Count 5: 15 months concurrent
Count 6: 1 week consecutive

DRING

OFFENCES:

Count 1: Illegal Entry and Larceny (with co-accused)
Count 2: Driving motor vehicle with alcohol level above limit contrary to Article 16(A)(1) of the Road Traffic (Jersey) Law, 1956
Count 3: Driving whilst disqualified, contrary to Article 9(4)(b) of the Road Traffic (Jersey) Law, 1956
Count 4: Using motor vehicle whilst uninsured against third party risks, contrary to Article 2(1) of the Motor Traffic (Third Party Insurance) (Jersey) Law, 1948.

PLEA: Guilty.

DETAILS OF OFFENCES:

Count 1: Entry to Jersey Pearl; larceny of jewellery to the value of £3,952.30; caught in the act.
Counts 2-4: driving offences within six days of disqualification; offences within weeks of coming to the Island.

DETAILS MITIGATION:

Commercial premises; opportunist crime; no violence; admission of offence and guilty plea; should be no discrepancy with co-accused. Natural children in Liverpool needed support.

PREVIOUS CONVICTION:

Many previous for larceny, burglary and driving offences.

CONCLUSIONS:

Count 1: 15 months
Count 2: 1 month consecutive
Count 3: 2 months' consecutive to Count 1; concurrent with Count 2.
Count 4: 2 months' consecutive to Count 1; concurrent with Counts 2 & 4.

SENTENCE AND OBSERVATIONS OF THE COURT:

Conclusions granted. In addition four years disqualification on Counts 2 - 4.

W.J. Bailhache, Esq., Crown Advocate;
Advocate A. Messervy for McDonough;
Advocate S. Fitz for Dring.

JUDGMENT

BAILIFF: It never ceases to amaze the Court how people with

criminal records can come freely to this Island, obtain jobs or not as their fancy takes them, frequent the pubs *ad nauseam*, and procreate children without the slightest degree of control from any of the authorities, whereas respectable people who want to come and work here, no doubt for the best of reasons advanced, are deprived of the chance of settling here. Be that as it may, this Island appears to have a reputation of being somewhere where people can come and commit offences with impunity. This Court is determined to show that that is not the right approach. But having said that, we do not wish to deprive anybody of a chance, who really wants to take that chance, to obtain work and to become an honest and law abiding citizen. However, in the case of these two men we do not think that latter remark applies.

We have taken into account all that counsel have said but we cannot find any reason for distinguishing between them. We think that the appropriate level of tariff sentence for offences of this nature (I am talking of Count 1 of the indictment, the illegal entry and larceny at the Jersey Pearl premises) is in fact fifteen months. Now, because McDonough was involved not only in those premises, but in a separate break-in at Grouville (Count 5 of the indictment), where although the premises are commercial, they are very close to a private dwelling house and owned by the owners of that dwelling house, we think that we should mark our displeasure of his behaviour on that night by increasing the conclusions asked for so that he does in fact receive a sentence of fifteen months, taking into account that earlier offence at Grouville on 13th July.

Accordingly, you are both sentenced as follows: McDonough, you are sentenced on Count 1, to fifteen months' imprisonment; on Count 5, to fifteen months' imprisonment concurrent; and on Count 6, one week's imprisonment consecutive. Dring, you are

sentenced to fifteen months' imprisonment on Count 1; on Count 2, one month's imprisonment consecutive; on Count 3, two months' imprisonment consecutive to Count 1, but concurrent with Count 2; and on Count 4, two months' imprisonment consecutive to Count 1, but concurrent to Counts 2 and 3. You are further disqualified from driving for four years.

Authorities

A.G. -v- Henry (5th June, 1989) Jersey Unreported.

A.G. -v- O'Shea (11th January, 1991) Jersey Unreported.

A.G. -v- Sanguy (22nd July, 1991) Jersey Unreported.