

ROYAL COURT

79.

8th May, 1992

Before: The Bailiff, and Jurats Bonn and Orchard

The Attorney General

-v-

Anthony Joseph Crossan

- 1 Count of taking a motor vehicle without the owner's consent or other authority, contrary to Article 28 of the Road Traffic (Jersey) Law, 1956 (Count 1 of Indictment);
 - 1 Count of driving a vehicle on a road recklessly, contrary to Article 14 of the Road Traffic (Jersey) Law, 1956. (Count 2);
 - 1 Count of driving a motor vehicle on a road with an alcohol concentration above the prescribed limit, contrary to Article 16 (A) of the Road Traffic (Jersey) Law, 1956. (Count 3);
 - 1 Count of failing to stop and report an accident, contrary to Article 27 of the Road Traffic (Jersey) Law, 1956. (Count 4);
 - 1 Count of driving without a licence, contrary to Article 3(1) of the Road Traffic (Jersey) Law, 1956. (Count 5);
 - 1 Count of using a motor vehicle uninsured against third party risks, contrary to Article 2(1) of the Motor Traffic (Third Party) (Jersey), 1948. (Count 6); and
 - 1 Count of resisting a Police Officer in the execution of his duty (Count 7)
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PLEA: Guilty

DETAILS OF OFFENCE: Bad case of reckless driving. Stole car, crashed, started again, picked-up passengers, was chased by police, drove through two red traffic lights, frightened passengers, drove with bonnet up so unable to see, crashed into two cars. Alcohol level 103 mcgs in breath (limit 35 mcgs) -tried to run away.

DETAILS OF MITIGATION: Pleaded guilty. Appalling record showed that he had a serious alcohol problem. Background report suggested probation with a condition that he attend alcohol study group.

PREVIOUS CONVICTIONS: Numerous motoring offences including 3 reckless driving, 11 TWOC, 2 DIC, 9 no insurance and 6 driving whilst disqualified.

CONCLUSIONS: Count (1) 3 months; Count (2) 3 months consecutive; disqualified three years; Count (3) 3 months concurrent; disqualified three years; Count (4) £50; Count (5) £50 fine or one week concurrent; Count (6) 3 months imprisonment, consecutive; disqualified 3 years concurrent; Count (7) £50 fine or one week concurrent. Total = 9 months imprisonment, disqualification 3 years.

SENTENCE AND OBSERVATIONS OF THE COURT: Serious case - total disregard for others' safety. Sentence moved for was quite correct. This was a case, where the Defendant had a serious alcohol problem and the Court should take a constructive view to try and conquer this. Sentence therefore of 1 year's probation with usual conditions, together with the condition that he attend Alcohol Study Group. Furthermore, on counts 1, 2, 3, and 6, there would be 90 hours of Community Service concurrent. Disqualified for 3 years.

M.C. St. J. Birt, Esq., Crown Advocate.
Advocate S.J. Crane for the accused.

JUDGMENT

THE BAILIFF: The accused in this case committed a number of serious driving offences, and as the Crown Advocate has said, he was fortunate that he did not kill or seriously injure some people on the road at the time. He showed a total disregard for other people's safety, including his own passengers, and indeed one can almost say for himself. We have no doubt that if it were not for a number of other factors, to which I shall refer in a moment, a prison sentence should be imposed. We also have no

But that the length of the prison sentence asked for by the Crown Advocate would be the correct one. However, in the words of one of the cases to which Counsel for the accused referred us, we think that his criminal actions can be attributed to his alcohol problem. It is not just a question of somebody aggravating the offence by getting drunk. It is a question, we think in this case, of someone who has been drinking so steadily for such a long time, even though he is a young man, that he has a very serious alcohol problem and we think we are entitled to take a constructive view of how to deal with him.

Accordingly we are going to change the conclusions and accept the submission of Counsel for the accused and the recommendations in the probation report with one addition.

You are placed on probation for one year on the usual conditions which are: that you will live and work as directed by your probation officer, that you will be of good behaviour during that period and that if you reoffend or break your probation order you will come up here for sentence. You must understand that you will probably, I cannot say more than that at this stage, receive a prison sentence and that prison sentence may well be the of the length suggested by the prosecution today. Furthermore, any time you may have spent on remand will not count by way of remission if you are in fact sentenced to prison for a breach of the probation order. You will attend, during that period, the alcohol study group.

In addition, in respect of counts 1, 2, 3, and 6, you will serve 90 hours community service, they will be concurrent of course with each other, and you will be disqualified from driving in this Island for three years on counts 2, 3 and 6 concurrently.

Authorities

Thomas: Principles of Sentencing (2nd Ed'n): p.p. 20-21: Intermediate Recidivist.
p.p. 204-5: "Jump effect",
p.210.

A.G. -v- Holley (13th March, 1992) Jersey Unreported.

Fromage -v- A.G. (1987-88) J.L.R. N.18.

A.G. -v- Whiteford (20th September, 1991) Jersey Unreported.

A.G. -v- Whiteford (25th October, 1991) Jersey Unreported.

R. -v- Boswell [1984] 3 All E.R. 353 C.A.