

**ROYAL COURT**  
**(Samedi Division)**

8th January, 1993

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**Before: The Bailiff, and**  
**Jurats Blampied and Rumpfitt**

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**The Attorney General**

- v -

**Mark Louis Fischer**

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- 1 count of receiving, hiding or withholding stolen property (Count 1A of the indictment).
- 1 count of breaking and entering with intent (Count 2); and
- 1 count of assaulting a police officer. (Count 3).

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**AGE:** 47

**PLEA:** Changed to guilty at Assizes.

**DETAILS OF OFFENCE:**

Received a lamp standard value £12.50 from private premises where front door had been broken open. Broke into a flat by smashing front door open. Occupier out. Daylight hours. Found by the Police inside the flat. Taken to PHQ in police car. Kicked the Officer driving the car.

**DETAILS OF MITIGATION:**

None (Defendant claimed he was "institutionalised", unemployable not eligible for benefits and thus alleged a vicious circle).

**PREVIOUS CONVICTIONS:**

A long and awful record of violence and dishonesty.

**CONCLUSIONS:**

Receiving - 9 months. Breaking and entering with intent - 18 months concurrent. Assaulting a Police Officer - 6 months consecutive (total 2 years).

**SENTENCING AND OBSERVATIONS  
OF THE COURT:**

Defendant invited to make new start in Scotland. Slight reduction in conclusions viz. Receiving - 6 months; Breaking and entering with intent - 12 months. But 6 months consecutive for the assault fully justified; offence could have had disastrous results. (total sentence 18 months imprisonment).

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**S.C.K. Pallot, Esq., Crown Advocate.**

**The accused on his own behalf.**

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**JUDGMENT**

**THE BAILIFF:** This is a case, Fischer, as you must know, where the Court has little option but to impose a custodial sentence. Breaking and entering and receiving are both serious offences, but the receiving itself involved a relatively small item and, therefore, we are going to make some reduction in the conclusions asked for in respect of that; and also in respect of the breaking and entering having regard to the fact that you were caught on the premises before much could be done. Nevertheless, we cannot lose sight of the fact that you were reminded in 1989 by this Court that we take a very serious view of intrusion into people's privacy by persons who break or even just enter, and certainly there is a range of prison sentences which this Court has upheld, sometimes for two years, sometimes more.

So far as count 3 is concerned it was an aggravating factor for you to kick the side of the driver's head, and very dangerous too; there could have been unfortunate, if not disastrous, consequences.

Now, having said all that, you have made a pleading to us which we have considered very carefully. You do not qualify for welfare in this Island for a number of reasons which it is not necessary for me to go into. You say you cannot get employment: there is unemployment and you really cannot blame employers for not wishing to employ you when you compete with other people who do not have your appalling record; as you say, you are well known in the Island. It seems to us that when you have served this sentence which I am obliged to impose on you, your best chance would be to go back to Scotland where you would receive proper welfare in the way it is operated there. You would not be known as you are here (unless you went back to your old haunts) and you might have a chance to start again. You are quite right to say that it is difficult for you to do that in Jersey but there is nothing that we can do about it. You have committed these offences; there is very little that can be said in mitigation, other than the eventual plea of guilty, but you have set before us, quite fairly, the difficult circumstances in which you have found yourself. The remedy is in your own hands and we are unable to help you further.

Accordingly we are going to sentence you as follows. On count 1 (a) for the receiving - 6 months. On count 2 for breaking and entering - 12 months concurrent, and on count 3, the assault on the police - 6 months consecutive, making a total of 18 months.

Authorities

Allo and Collins -v- A.G. (1983) J.J. 85.

A.G. -v- Fischer (9th March, 1989) Jersey Unreported

Thomas: Principles of Sentencing (2nd Ed'n): pp. 147-151:  
Burglary