

ROYAL COURT
(Samedi Division)

19.

4th February, 1994

Before: The Bailiff, and
Jurats Coutanche and Gruchy

The Attorney General

- v -

William Charles Dubois.
Andrew Ernest Louis.
Martin John Wakeling.

Sentencing after the following guilty pleas were entered on the 10th December, 1993:

Dubois

- 9 counts of taking a motor vehicle without the owner's consent or other authority contrary to Article 28 of the Road Traffic (Jersey) Law, 1956. (Counts 1, 4, 5, 6, 7, 9, 10, 11 & 13 of the indictment).
- 2 counts of illegal entry with intent (counts 2 & 3).
- 1 count of larceny (count 8).
- 1 count of breaking and entering and larceny (count 12).
- 1 count of malicious damage (count 27).

Louis

- 4 counts of driving or allowing himself to be carried in or on a motor vehicle knowing that the said vehicle had been taken without the owner's consent or other authority, contrary to Article 28 of the Road Traffic (Jersey) Law, 1956. (Counts 1A, 4A, 20A & 25A).
- 2 counts of illegal entry with intent (counts 2 & 3).
- 1 count of illegal entry and larceny (count 14).
- 3 counts of breaking and entering with intent (counts 15, 24 & 26).
- 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 16).
- 6 counts of breaking and entering and larceny (counts 17, 18, 19, 21, 22 & 23).

Wakeling

- 9 counts of driving or allowing himself to be carried in or on a motor vehicle knowing that the said vehicle had been taken without the owner's consent or other authority, contrary to Article 28 of the Road Traffic (Jersey) Law, 1956. (Counts 1A, 4A, 6A, 7A, 9A, 10A, 11A, 13A & 16A).
- 2 counts of illegal entry with intent (counts 2 & 3).
- 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 5).
- 2 counts of larceny (counts 8 & 30).
- 4 counts of breaking and entering and larceny (counts 12, 17, 18 & 29).
- 3 counts of illegal entry and larceny (counts 14, 28 & 31).
- 1 count of breaking and entering with intent (count 15).
- 1 count of escaping from lawful custody, contrary to Article 22(A) of the Prison (Jersey) Law, 1957, as amended. (Count 32).

CONCLUSIONS

Dubois

Counts 1, 4, 5, 6, 7, 9, 10, 11, 13: 6 months' imprisonment; 12 months' disqualification.
Counts 2, 3, 8, 12: 15 months' imprisonment.
Count 27: 1 month's imprisonment.
All sentences to run concurrently.
TOTAL: 15 months' imprisonment; 12 months' disqualification.

Louis

Counts 1A, 4A, 16, 20A, 25A: 6 months' imprisonment; 12 months' disqualification.
Counts 2, 3, 14, 15, 17, 18, 19, 21, 22, 23, 24, 26: 2 years' imprisonment.
All sentences to run concurrently.
TOTAL: 2 years' imprisonment; 12 months' disqualification.

Wakeling

Counts 1A, 4A, 5, 6A, 7A, 9A, 10A, 11A, 13A, 16A: 6 months' imprisonment; 12 months' disqualification.
Counts 2, 3, 8, 12, 14, 15, 17, 18, 28, 29, 30, 31: 21 months' imprisonment.
Count 32: 1 month's imprisonment.
All sentences to run concurrently, except that imposed in respect of count 32 which is to follow consecutively.
TOTAL: 22 months' imprisonment; 12 months' disqualification.

SENTENCE: conclusions granted.

The Attorney General.
Advocate Mrs. S. A. Pearmain for Dubois and Louis.
Advocate S.J. Habin for Wakeling.

JUDGMENT

THE BAILIFF: The Court gave very serious consideration as to whether the accused, certainly Louis and Wakeling, did not merit sentencing before the Superior Number; but after taking into account what the Crown has said about the very substantial mitigation: all three were very frank with the police and, of course, it follows that they pleaded guilty; and none of the places broken into were dwelling houses, the Court is satisfied that it is competent to deal with these three accused. However, they did commit a large number of offences over a period of time and the Court has said on many occasions that breaking and entering by night is a serious offence which normally merits a sentence of imprisonment.

The Court does not think it appropriate to consider bench marks in this context. It has had regard to the general level of sentencing in the past; it has had regard to the case of Marie -v- A.G. (11th June, 1992) Jersey Unreported C.of.A.; and A.G. -v- Aubin (14th May, 1987) Jersey Unreported, and of course the conclusions and the pleas in mitigation by counsel.

It is not the business of this Court - in the words of a recent article in "The Times" - "to re-arrange the personalities of offenders". It is the duty of this Court to punish offenders with fairness on behalf of those for whom the Court speaks. We think that these offences do merit punishment. We think that people are entitled to leave their motor vehicles outside their houses on the public roads at night without having them stolen in this way.

We note, as regards Wakeling, your particular plea, Mr. Habin, that we should reduce the conclusions substantially as regards the disqualification in that he was only a passenger. We note what the Attorney General said: that Dubois and Wakeling had been watching a television programme about "joy riding" and it was your client who said "I can do that", and he was asked to prove it. He therefore knew perfectly well what he was doing and although he was a passenger, he was taking part fully in the illegal activities.

We think it is time that all three were sentenced to a reasonably substantial term of imprisonment, even though it may be - as counsel and certainly the Probation Officer, so far as Dubois is concerned, have said - that there might possibly be an alternative; and even though, in the case of Louis, a number of alternatives were set out for the consideration of the Court.

We have read the reports very carefully, but, in the light of the seriousness of the offences and the long time over which they were continued and the apparent total disregard of other peoples'

rights to their property, we cannot find that the conclusions are wrong either in principle or are too high.

Accordingly the conclusions are granted and, Louis, you are sentenced on counts 1A, 4A, 16 and 20A and 25A to 6 months' imprisonment concurrent, and to disqualification from driving for 12 months. On counts 2, 3, 14, 15, 17, 18, 19, 21, 22, 23, 24 and 26, to 2 years' imprisonment concurrent.

Wakeling, you are sentenced on counts 1A, 4A, 5, 6A, 7A, 9A, 10A, 11A, 13A and 16A, to 6 months' imprisonment concurrent, and to disqualification from driving for 12 months. On counts 2, 3, 8, 12, 14, 15, 17, 18, 28, 29, 30 and 31, to 21 months' imprisonment concurrent. On count 32 regarding your escape from arrest, that must clearly be consecutive, as it is a totally different matter, and even though you gave yourself up to the police, it merits a sentence of imprisonment. You are therefore sentenced to 1 month's imprisonment consecutive, making a total of 22 months' imprisonment.

Dubois, on counts 1, 4, 5, 6, 7, 9, 10, 11 and 13, you are sentenced to 6 months' imprisonment, and disqualified from driving for 12 months. On counts 2, 3, 8 and 12, you are sentenced to 15 months' imprisonment concurrent. On count 27, malicious damage, you are sentenced to 1 month's imprisonment concurrent.

Authorities

A.G. -v- Fischer (8th January, 1993) Jersey Unreported

A.G. -v- McMahon (28th August, 1992) Jersey Unreported.

Dring -v- A.G. (12th February, 1992) Jersey Unreported C.of.A.

A.G. -v- McDonough & Dring (25th October, 1991) Jersey Unreported.

A.G. -v- Cunningham, Lynch & McCormack (6th September, 1991)
Jersey Unreported.

A.G. -v- Pemberton (14th June, 1991) Jersey Unreported.

A.G. -v- Lynch & Barclay (24th May, 1991) Jersey Unreported.

A.G. -v- McDonald (7th December, 1990) Jersey Unreported.

Thomas: Principles of Sentencing (2nd Ed'n): pp.56-61: The
Totality Principle.

Marie -v- A.G. (11th June, 1992) Jersey Unreported C.of.A.

A.G. -v- Aubin (14th May, 1987) Jersey Unreported.