

ROYAL COURT
(Samedi Division)

220.

4th November, 1994

Before: F.C. Hamon, Esq., Commissioner, and
Jurats Vibert and Potter

The Attorney General

- v -

Paul Adam Skinner

Application for renewal of bail, following remand to Superior Number for sentencing following guilty plea to:

- 1 count of grave and criminal assault (count 1 of the indictment laid against the applicant and his co-accused, Kenneth Charles Skinner);
- 1 count of assault (count 6); and
- 1 count of violently resisting police officers in the execution of their duty (count 7).

A.J. Dessain, Esq., Crown Advocate.
Advocate Miss D.M.C. Sowden for the Applicant.

JUDGMENT

THE COMMISSIONER: Two brothers are charged essentially with serious offences, one of which is a grave and criminal assault.

5 The facts, as explained to us by the Crown Advocate, are extremely serious. The two brothers, Kenneth and Paul Skinner, were driving home in a taxi one evening. At the entrance to the Tunnel, passing the Weighbridge, they saw a heated argument between the complainant and his girlfriend. They told the taxi to stop and remonstrated with the couple. They returned to the taxi
10 and at the end of the Tunnel, after seeing the argument continuing, again asked the taxi to stop.

15 There is a dispute as to the evidence: Crown Advocate Dessain says there was an ambush; Miss Sowden says that the stopping at the end of the Tunnel was coincidental with the arrival of the couple. But from the evidence of an independent observer it

5 appears that a serious assault was committed on the complainant. He was kicked and hit with a 4 ft. scaffold-pole by Kenneth Skinner. He was kicked by Paul Skinner and apparently Paul Skinner also punched the lady several times in the face. Although, again, Miss Sowden says that the lady was pushed by Mr. Paul Skinner.

10 We have a problem in that on 3rd May, 1994, Paul Skinner, who appears before us now, was placed on £500 bail, on a plea of not guilty with a condition he report to the police once a week; a curfew was also imposed, but that has since been struck out of the bail conditions.

15 Mr. Dessain tells us that because of the guilty plea entered today, circumstances have changed in seven material ways. First, he says, there is the gravity of the offence. Secondly, the fact that guilt is now admitted. Thirdly, there is the likelihood of a prison sentence. Fourthly, the matter has been remanded to the Superior Number. Fifthly, there is the joint nature of the
20 assault which apparently was premeditated. Sixthly, there is the injury to the complainant and on that point we have to point out that there were, apparently, two medical reports, but we only heard of one. Seventhly, the date for trial is only twenty days
25 away.

We were referred, by Advocate Dessain, to the case supported by a passage in Archbold paragraph 3-140 citing the case of R. -v- Coe (1969) 1 All ER 65 C.A., where Lord Parker CJ said at p.68 of the report:

30 *"The third observation relates to the fact that the applicant was committed for sentence on bail. There is power now to grant bail to an accused committed for sentence under s.29 of the Magistrates' Courts Act 1952, but in the opinion of this court the cases must be rare when justices can properly commit for that purpose on bail because the whole purpose of the committal is to have the accused sent to prison, and have him sent to prison for a longer period than the justices could impose. It is quite
35 clear that the limitations put on the power of justices to remand in custody, which are to be found in s.18 of the Criminal Justice Act 1967, have no application whatever to a committal under s.29 of the Magistrates' Courts Act 1952. This court can only understand the committal on bail in the present case on the basis that the justices have been so exhorted in the past to put prisoners on
40 bail, that they are almost automatically granting bail. This applicant had no business to be committed on bail".*

50 Our problem is a difficult one. We have not taken into account the criminal record, such as it is, of the accused. We have examined very anxiously the fact that Paul Skinner has abided

since the 3rd May by the terms of his bail, but our problem is quite simply that the facts, as presented by the Crown Advocate, present a case which, in our opinion, would inevitably lead to a prison sentence. The facts, as presented by Miss Sowden, if they are correct, lead us to suspect that perhaps a prison sentence might not be imposed. But Miss Sowden has not asked for a Newton hearing and therefore this Court, however it may feel in the circumstances, is sadly bound by the facts as explained to us by the Crown Advocate and on those facts we have to follow, in our view, the strictures of R. -v- Coe and we feel that we have no alternative - because of the seriousness of the facts as explained to us and because on those facts we have no doubt that a prison sentence will be imposed - to say that bail is rescinded and you must be remanded in custody.

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Authorities

R. -v- Coe (1969) 1 All ER 65 C.A.