

ROYAL COURT
(Samedi Division)

147.

24th July 1995.

Before: The Deputy Bailiff and Jurats
Potter and Gruchy

Police Court Appeal
(The Relief Magistrate)

Wayne Alfred Baxter

-v-

Attorney General

Appeal against total sentence of 4 weeks imprisonment passed on 20th June, 1995, following guilty pleas to:

- 1 count of driving whilst disqualified, contrary to Article 9(4) of the Road Traffic (Jersey) Law, 1956, as amended ; (count 1, on which a sentence of 4 weeks' imprisonment with 2 years disqualification from driving was imposed); and
- 1 count of driving whilst uninsured, contrary to Article 2(1) of the Motor Traffic (Third Party Insurance)(Jersey) Laws, 1948-1972, (on which count a sentence of 1 week's imprisonment, concurrent, was imposed).

Appeals dismissed.

J. P. G. Wheeler, Esq., Crown Advocate
Advocate C. P. G. Lakeman for the Appellant

JUDGMENT

DEPUTY BAILIFF: This is an appeal by Wayne Alfred Baxter who was convicted on 20th June, 1995, for driving a motor vehicle whilst disqualified for which he was sentenced to four weeks' imprisonment and for driving with no insurance for which he was

sentenced to one week's imprisonment, concurrent. There was also a minor parking offence.

5 He appeals against his sentence in that he was not represented at the Police Court and had no indication or conception that he might be sent to prison. Perhaps he did not consider sufficiently the seriousness of the offence for which he is charged.

10 He is, after all, a mature man who was employed and who must have known that he was not allowed to drive a motor vehicle.

15 As the relief Magistrate said when sentencing him "*driving whilst disqualified is an extremely serious offence*". We have already dealt on appeal today with two offences where we have commented on that point.

20 Mr. Lakeman relied mainly on two cases, that of A.G. v. Lelliott (29th November, 1989) Jersey Unreported, where Commissioner Le Cras said:

25 "*It is clear and quite rightly so the general rule or practice that where an offender is likely to go to prison for the first time, for the Magistrate to call for a background report*".

30 And then again he referred us to the case of A.G. v. Muir (9th January, 1989) Jersey Unreported which was a case where fines were imposed which it was quite beyond the means of the appellant to pay and so he was bound to serve a sentence of imprisonment. Each of those cases, in our view, is clearly distinguishable. We are not dealing with a first offender and Baxter has in fact twice served sentences of imprisonment. He has a bad record.

35 What Mr. Lakeman says is that if there had been a background report of some kind the relief Magistrate would have found out certain facts: that is that Mr. Baxter lives with a lady and they have a three year old child. She was about to go into hospital for routine surgery with a convalescence of about 10 days. The day to day arrangement is that, because the lady works in a bank and he is employed by a large firm of decorators where he has worked for some three years, he leaves work at about 4 o'clock to collect the child from the nursery and then looks after her.

45 The problem we surmise is that if the learned relief Magistrate had had that information and had then imposed the sentences that he did impose, there is absolutely nothing that would have made the sentences, which are quite unremarkable, manifestly excessive or wrong.

50 We have considered the case very carefully but even with the information that we have before us and in the light of his record

and of the seriousness of the offences and despite everything which Mr. Lakeman has urged on his behalf, we cannot see any way that we can interfere with the decision of the learned relief Magistrate and therefore the appeal is dismissed.

Authorities

Gorvel -v- A.G. (1973) JJ. 2503 CofA.

A.G. -v- Muir (9th January, 1989) Jersey Unreported.

A.G. -v- Lelliott (29th November, 1989) Jersey Unreported.

McMeiken -v- A.G. (25th July, 1994) Jersey Unreported.