

ROYAL COURT  
(Samedi Division)

12th January, 1996. 6.

Before: Deputy Bailiff and Jurats Myles  
and de Veulle

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Her Majesty's Attorney General

-v-

Andrew Marcel Theophile Jouan

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Application for review of the refusal of the  
Relief Magistrate to grant bail.

On 9th November, 1995,	the applicant was remanded in custody to 7th December, 1995, following a guilty plea to 1 count of indecent assault.
On 7th December, 1995,	the applicant reserved his plea to 19 further counts of indecent assault and was remanded in custody to 12th December, 1995,
On 12th December, 1995,	the applicant pleaded guilty to those counts to which he had reserved his plea on 7th December, 1995, and was remanded in custody to 9th January, 1996, for reports.
On 9th January, 1996,	the applicant was again remanded in custody for trial before the Royal Court. A bail application was refused.

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S.C.K. Pallot, Esq., Crown Advocate.  
Advocate Mrs. S.A. Pearmain for the accused.

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JUDGMENT

THE DEPUTY BAILIFF: We have found this matter extraordinarily difficult. However we look at it, this is a bail application and our duties on a bail application are clear. We do not need to rehearse them again here.

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Mrs. Pearmain said that the learned Relief Magistrate failed properly to assess the risks involved in granting bail. We are not certain that that is so, and we are not certain that there are

grounds which enable us to review the decision that Mr. Dorey made.

5. We have now had an opportunity to study carefully the transcript of the application made to Mr. Dorey. He heard at length from Detective Sergeant Shearer, who said initially that the serious nature of the offences was in itself sufficient to refuse bail. It seems to us as though Detective Sergeant Shearer were treating the application as a bail application so that Jouan would be released into the community at large in the normal way. 10 That is not, and never was the question, and we are quite clear that the Magistrate was aware of the decision that he had to make.

15 The question was whether Jouan would be allowed to go for assessment to a specialist unit for one month and then return to Jersey in custody to await sentence.

20 We have heard, from some of those who support Jouan but we have not, of course, heard from those who do not support him. It seems to us, listening to everything that Mrs. Pearmain has put so clearly to us, that an assessment would be useful, and we would go so far as to say that it might be very useful to the sentencing Court.

25 We have information today which is not complete. We have, however, heard from Crown Advocate Pallot that Jouan is likely to be indicted on 2nd February, 1996. After giving this matter very considerable thought, Mrs. Pearmain, we feel it would be better to make your application at that time.

30 We would say this. In the final analysis we cannot, in honesty, say that the Relief Magistrate erred in such a way that it enables us to review his decision and we would, I believe, be bending the truth of the matter if we found otherwise.

35 There is an advantage in leaving the matter over, and that is that when all the information of these very serious and disturbing charges are brought before the sentencing Court, it will be able to treat the matter not, I would surmise, as an application for bail, but as an option which it might like to consider prior to sentencing. If we are right in that assessment, it seems to us that the sentencing Court, at the time of indictment, if it shares our view that this treatment could be useful - and it can only do that when it has been able to assess the true seriousness of all the offences that are charged against Jouan - will be able then to 40 treat the matter so that it might perhaps order that Jouan be accompanied by a policeman rather than a probation officer when he goes to this assessment centre, so that there is then no possibility of his absconding when he gets to England.

50 Mrs. Pearmain, I am sorry to say it, but we refuse your application, but we refuse it, we hope, in a helpful way and we

anticipate that something will come of this and we are very grateful to the Probation Officer for all the assistance he has given to the Court this afternoon.

No Authorities.