

ROYAL COURT
(Samedi Division) 144

2nd August, 1996.

Before: F.C. Hamon, Esq., Deputy Bailiff, and
Jurats Blampied and Rumfitt.

The Attorney General

- v -

Claude Leon Maurice Bertot

- 1 infraction of Article 6(1) of the Sea Fisheries (Jersey) Law, 1994: retaining in his possession seafish (crabs) of a size smaller than that prescribed by the Sea Fisheries (Size Limits)(Jersey) Regulations, 1989. (Count 1).
- 1 infraction of Article 16(c) of the said Law: throwing the said seafish over the side of his fishing boat, thereby preventing a fishery officer from seizing the same. (Count 2).
- 1 infraction of Article 16(a) of the said Law: failing to take a fishing boat of which he was master to the nearest convenient port, when required to do so by a fishery officer (Count 3).

PLEA: Facts admitted.

AGE: 27.

DETAILS OF OFFENCE:

The accused was found in possession of nine undersized crabs on inspection at sea [Count 1]. He threw the crabs overboard in an attempt to prevent them being used as evidence [Count 2]. When directed to take his boat to Jersey he refused with the result that the fishery officer eventually left the vessel. The Law Officers wrote to the defendant inviting him to return to the jurisdiction voluntarily. He did not do so and was arrested at sea on a subsequent occasion and brought to Jersey.

DETAILS OF MITIGATION:

He had intended to sort out the undersized fish and throw them back into the sea when he arrived in France. He had not returned to Jersey because of a misunderstanding as to whether discussions were taking place with the Sea Fisheries Adviser. He was an immature person who reacted irrationally when faced with a difficult situation. He had suffered through the detention of his vessel for a week and the loss of a catch.

PREVIOUS CONVICTIONS:

One for retaining undersize catch, another for fishing inside Jersey exclusive limits and a conviction in August, 1995, for obstruction and failing to comply with the instructions of fisheries officers in circumstances similar to those of the present offence.

CONCLUSIONS:

Count 1 : £2,000 fine, or 4 months' imprisonment in default of payment.
Count 2 : £500 fine, or 4 months' imprisonment in default of payment.
Count 3 : £3,500 fine, or 4 months' imprisonment in default of payment.
Default sentences to run concurrently.

SENTENCE AND OBSERVATIONS OF THE COURT:

Conclusions granted. Defendant had learned nothing from previous Court appearances. Court agreed with Crown's description of catching undersized fish as an act of "supreme selfishness".

The Attorney General.
Advocate P. Landick for the Defendant.

JUDGMENT

5 THE DEPUTY BAILIFF: The facts of this case have been outlined in precise detail by the Attorney General. Bertot has been found in possession of undersized chancre crabs following the boarding of his vessel in the area of les Ecrehous by the patrol vessel of the Department of Agriculture and Fisheries. Bertot has committed similar offences before.

10 His attitude in this case, as in the previous case, was to destroy evidence by throwing the undersized crabs and lobsters into the sea and to obstruct aggressively those in authority in the territorial waters in which he deliberately chose to fish.

15 The purpose of these inspections, which apply to any fisherman fishing in our waters, is to preserve stock. We see the law as necessary and important to preserve that stock for future generations. We entirely agree with the Crown that anyone - immature or not - who puts his own financial interest above the interests of fishermen born and still to come is guilty of supreme selfishness. Despite what Mr. Landick has said on his behalf, 20 when someone like Bertot persists in putting himself above the law then, sadly, he deserves to be punished. He has learned nothing, apparently, from what was said last year when he was fined for similar offences. Mr. Landick has stressed that he is somewhat immature and does not react well in confrontations with authority; 25 but he has to learn.

The Attorney General moves for higher fines than last time and we feel that that is right. The case is serious and therefore, Bertot, if you will stand up, please. You are fined £2,000 on count 1, or four months' imprisonment in default of payment; £500 on count 2, or four months' imprisonment in default of payment; and £3,500 on count 3, or four months' imprisonment in default of payment; all the default periods to be concurrent one with the other. The total fine is £6,000, or four months' imprisonment in default of payment. If time is required for you to convert the francs which you have brought with you into sterling, that will be granted, but your boat will not be released by the Viscount until such time as the fine is paid to his satisfaction.

No Authorities.