

ROYAL COURT
(Samedi Division)

18.

31st January, 1997

Before: F.C. Hamon, Esq., Deputy Bailiff
and Jurats Le Ruez and Vibert

The Attorney General

-v-

Perry John Le Flock

- 1 count of: being drunk and disorderly (count 1)
- 2 counts of: possessing a firearm, contrary to Article 3(2)(a) of the Firearms (Jersey) Law, 1956 (counts 2,3)
- 1 count of: having in a public place an offensive weapon, contrary to Article 27 of the Firearms (Jersey) Law, 1956 (count 4)
- 5 counts of: discharging a missile on a road, contrary to Article 2(j) of the Policing of Roads (Jersey) Regulations, 1959 (counts 5,6,7,8,9)
- 3 counts of: malicious damage (counts 10,11,12)
- 2 counts of: possession of a controlled drug, contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978
Count 13: M.D.M.A.
Count 14: Cannabis resin.
- 1 count of: breach of the peace (count 15)
- 1 count of: resisting arrest (count 16).

Plea: Guilty.

Age: 35

Details of Offence:

During the early hours of the morning (between 02.15 hours and 04.00 hours) Le Flock discharged cartridges from a .410 sawn-off shotgun whilst travelling as a front seat passenger in a vehicle. The shots were fired from Victoria Avenue out towards the sea, at three properties in St. Helier and across fields on the outskirts of St. Helier and in St. Clement. The weapon was not pointed at any individual group and the risk of injury to members of the public was remote.

Details of Mitigation:

Le Flock had a difficult up-bringing, both his parents had received psychiatric treatment and he had received psychiatric treatment from the age of 15. Guilty plea. Remorse. Consultant psychiatrist said Le Flock was an immature and harmless person who had now accepted responsibility for this action. Le Flock was attempting to dissuade friends from using and dealers from pushing heroin and entertained the misconceived notion that he was doing a service to the Island.

Previous Convictions:

Bad record. One previous conviction for possession of an offensive weapon (knife) for which he received a fine of £80.

Conclusions:

Count 1 : 3 weeks' imprisonment.
Count 2 : 6 months' imprisonment, consecutive to sentence imposed on count 1.
Count 3 : 6 months' imprisonment, concurrent with sentence imposed on count 2, but consecutive to that imposed on count 1.
Count 4 : 12 months' imprisonment, concurrent with sentences imposed on counts 1 & 2, but consecutive to that imposed on count 1.
Count 5 : £50 fine or 14 days' imprisonment in default of payment, concurrent.
Count 6 : £50 fine or 14 days' imprisonment in default of payment, concurrent.
Count 7 : £50 fine or 14 days' imprisonment in default of payment, concurrent.
Count 8 : £50 fine or 14 days' imprisonment in default of payment, concurrent.
Count 9 : £50 fine or 14 days' imprisonment in default of payment, concurrent.
Count 10 : £50 fine or 14 days' imprisonment in default of payment, concurrent.
Count 11 : £50 fine or 14 days' imprisonment in default of payment, concurrent.
Count 12 : £50 fine or 14 days' imprisonment in default of payment, concurrent.
Count 13 : 3 months' imprisonment, consecutive.
Count 14 : 1 week's imprisonment, concurrent.
Count 15 : 3 weeks' imprisonment, concurrent.
Count 16 : 3 weeks' imprisonment, concurrent.
TOTAL : 15 months' imprisonment; £400 fine or 14 days' imprisonment in default of payment, concurrent.

Sentence and Observations of the Court: Conclusions granted.

P. Matthews, Esq., Crown Advocate.
Advocate D.G. Le Sueur for the Accused.

JUDGMENT

5 THE DEPUTY BAILIFF: The charge of being drunk and disorderly on 4th January, 1996, would not, perhaps, have ever been brought to the attention of this Court had it not merged with far more serious offences. Le Flock is charged with one count of possessing a firearm without a licence; one count of possessing an offensive weapon; five counts of discharging that firearm and, coupled with that, three counts of malicious damage.

10 The story as it unfolds is almost bizarre. Le Flock and a group of friends decided to persuade a gentleman called Ricardo Philippe Vasconcelos to stop using heroin. They set off to find

him and in the early hours of 24th February, 1996, he was located at a bakery in Bath Street. He was persuaded to join them in the car as one of the party. Le Flock, apparently, began to harangue Vasconcelos on the dangers of heroin and produced a sawn-off double barrel shotgun from his clothing. The Crown has been anxious to point out that that shotgun was never pointed at the passengers in the car, but both barrels were fired towards the sea as the car drove in a westerly direction along Victoria Avenue. As the vehicle approached Midvale Road after turning at the roundabout, Le Flock again discharged both barrels of the shotgun, awakening a Mr. Michael Hogan as the shot hit a window of his house, causing damage estimated at £50. Two further shots were fired in Grands Vaux; another near the top of Mont Neron across fields. As the vehicle continued on its journey, two more shots from this lethal weapon were fired on Trinity Hill near the junction with Old Trinity Hill. These struck private properties causing more damage.

There was a pause in this lunatic and dangerous journey. Le Flock stopped at his parents' address, where, in the presence of his mother and stepfather, he continued to harangue Vasconcelos on the dangers of heroin. After an hour the journey continued. At La Blinerie Lane they stopped; the shotgun was discharged again and debris from a hawthorn hedge apparently hit the driver on the cheek. Thereupon an altercation broke out and the party returned to town where the incident ended. The shotgun was later found with two live cartridges in a car belonging to Le Flock's mother. We have not heard how a member of the public can obtain such a weapon and live ammunition without a licence.

There are other counts, two ecstasy tablets and two tablet fragments were found in Le Flock's room after his arrest, as was 950 grams of cannabis. Again, we find it somewhat strange that Le Flock makes the distinction between heroin and ecstasy which he has imported in the past but Mr. Le Sueur in his admirable address explained his client's views to us.

There was then a serious breach of the peace when, on 6th August, 1996, Le Flock was swearing and cursing very loudly, smashing up items in the garden of his address, and two lady members of the public were sufficiently frightened by this activity both individually to dial 999. The hurling of a washing line like a spear at the police officers who were trying to arrest him fortunately did not cause injury, but again it was an unpleasant incident.

We have read the reports very carefully and it is clear that Le Flock has psychiatric problems yet the Crown has gone to some lengths to explain that the shotgun was fired randomly in the early hours of the morning and was never pointed at a person. If we had thought otherwise the penalty for the public good would have been very severe. A sawn-off shotgun is prohibited under the

Law because of its deadly potential. In any event, we regard the offences as serious. The firing of a sawn-off, double barrel shotgun must always be regarded as serious whatever the circumstances.

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Dr. Faiz describes Le Flock's actions as "an over zealous mission in an intoxicated state", but it could have had infinitely more serious consequences than it did. Further, if some of these matters were drink related, that, in our view, is only an aggravation.

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Le Flock has a long record but he has no previous conviction for possessing a firearm, although on 19th August, 1992, the possession of an offensive weapon (a knife) earned a fine of £30.

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It is quite clear that the discharging of the offensive weapon put those accompanying Le Flock in fear, apart from the one passenger who, apparently, was comatose with drink. As we have said, his record is not good although there is a break of six years, between 1986 and 1992. Le Flock has been frank according to his own lights and we have heard that his time on remand has not been without incident. He has spent, with remission, on remand the equivalent, we are told, of 13 months and 17 days and in the circumstances we are prepared to take that period into account in imposing the sentence but we are going to follow the conclusions of the learned Crown Advocate.

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Le Flock, will you stand up, please. On count 1, you are sentenced to 3 weeks' imprisonment; on count 2, you are sentenced to 6 months' imprisonment, consecutive to count 1; on count 3, you are sentenced to 6 months' imprisonment, concurrent with count 2, but consecutive with count 1; on count 4, you are sentenced to 12 months' imprisonment, concurrent with counts 1 & 2, but consecutive to count 1; on counts 5 to 12, you are sentenced to £50 fine or 14 days' imprisonment in default of payment, concurrent; on count 13, you are sentenced to 3 months' imprisonment, consecutive; on count 14, you are sentenced to 1 week's imprisonment, concurrent; on count 15, you are sentenced to 3 weeks' imprisonment, concurrent; on count 16, you are sentenced to 3 weeks' imprisonment, concurrent, making a total of 15 months' imprisonment; £400 fine or 14 days; imprisonment in default of payment, concurrent. We order the forfeiture and destruction of the drugs together with the confiscation of the shotgun.

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Authorities

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey":
pp.94-95.