85/17

COURT OF APPEAL.

7th February, 1985.

Before: J.J. Clyde, Esq., Q.C., (President): Sir Patrick Neill, Q.C.; D.C. Calcutt, Q.C.

SHELDRAKE, Peter Richard (Advocate Le Marquand) — Application for leave to appeal against sentence of 4 years' imprisonment imposed by Superior Number on the 8th November, 1984 (Robbery).

Judgement

This is an application for leave to appeal by Peter Sheldrake, Sheldrake pled guilty to a charge of robbery. The crime occurred on 29th May, 1984, when he entered premsies at Les Ormes Lane, and robbed an elderly gentleman, who was then in bed, of some £260 together with a'hold-all'. He was sentenced to 4 years' imprisonment, and it is against the sentence that he seeks leave to appeal. There was another man, John Francis Bree, who was charged on the same indictment, on one count of breaking and entering with intent to rob. He, as Sheldrake did, pled guilty to that charge, and was sentenced to 2 years' imprisonment. There is no appeal now taken against that sentence. The facts, briefly, were that the two men entered the house in the early hours of the morning; Sheldrake was wearing a disguise in the form of a mask. He woke the inhabitant, who was an elderly man, reduced him to a state of terror, punched him several times in the face, and then robbed him. It appears he was guilty of what the learned Bailiff described as "gratuitous brutality". The original initiative for this adventure came from Bree. He appears to have supplied the means for entry, and the stockings for disguise. But Bree took no part in the assault and no part in the actual robbery. He fled before the commission of the worst part of the adventure.

Mr. Le Marquand has stressed the psychiatric condition and the alcoholic tendency of his client, and he has pointed to his strange, illogical or even irrational behaviour, as he described it, after the commission of the crime. He has mentioned that, in addition to that, his client was to some extent under the influence of drink. The fact is that Sheldrake knew what he was doing. The event had been planned. He knew the desirability of wearing gloves, and disguise, and he was perfectly responsible for what he was undertaking and for what he achieved. Mr. Le Marquand stressed the disparity as he saw it, of sentence between the 2 years awarded to Bree and the 4 years awarded to Sheldrake. However, Bree was only charged with the lesser offence, that only of breaking and entering. It does appear that Bree, if he did not even intend violence, at least took no part in it. The argument that the two sentences are disparate, the one with the other does not seem to us to be born out in the circumstances of the case. Mr. Le Marquand mentioned the lack of parole, or the smaller opportunity for parole available on this island as compared with the United Kingdom. But it does not seem to us that that is a relevant matter bearing on sentence, and of course, if there are such differences in eligibility for parole, those differences will be familiar to the Royal Court. Beyond that, Mr. Le Marquand made a careful analysis of the principal facts in the case, and indeed of all the mitigating factors and circumstances that can be found. It does not appear to us that there is anything to show that the Court below was in such error as would entitle us to intervene with the sentence which was passed and so far as the mitigating factors are concerned, they seem to have been substantially presented to the Court below. And there is nothing in them which would warrant us making alteration to the sentence which was given. In all these circumstances, the decision of this Court is to refuse leave to appeal.