

1st April, 1985

85/27

Brian Douglas Picot

DEPUTY BAILIFF: ... not having applicants present when an application is made for leave to appeal and therefore you made your submission that, in fact, they should be present in every case. I am afraid the Court is unable to accept that submission; quite clearly, Article 11 of the Appeal Court Law envisages, indeed, that the papers would be sent outside the jurisdiction and the impracticality of having every applicant present in London or Guernsey, as the case may be, is really a matter which obviously was before the legislature at the time and there was an implied indication, I think, there, that it was not necessary for the applicant to be present in person. Indeed, as a matter of practice, he is not present either in Guernsey or in the United Kingdom and we think that, although we previously used to have them present, that was what I call an abundance of caution, perhaps, and was not a necessity and, accordingly, your submission that applicants should be present is not accepted.

As regards the application for leave to appeal itself, we have indeed accepted the grounds you have urged and have agreed to hear the application and treat it as an appeal itself and, therefore, it is on the merits of the appeal that I now give the Court's decision. The Court has considered very carefully the case of (indistinct) and the other matters mentioned by the Crown and you and although, as you have said and the Crown has said, it was possible that the Court itself might not have come to the same decision as the Inferior Number, yet it is not possible to say that the sentence of nine months was manifestly excessive and therefore, by a majority of six to one - I think it is fair you should know this - the Court has decided that the appeal should be dismissed. Is this a legal aid case? Right, you shall have your legal aid costs.