

ROYAL COURT

20th June, 1988

Before: the Bailiff,
assisted by
Jurats Hamon and Gruchy

Her Majesty's Attorney General

- v -

Donald Bewhay

Appeal against sentence in respect of
breach of Probation and
Community Service Orders

Advocate S.C. Nicolle for the Crown
Advocate C.R. de J. Renouf for the Appellant

JUDGMENT

BAILIFF: The first thing I want to say is that Community Service Orders are not soft options to be performed as and when the person on whom they are imposed thinks he or she will do them. They are to be done to the order of the officer in charge of each of the accused persons who are ordered to carry out Community Service. We are quite satisfied that it was right and proper for the Magistrate to discharge the Probation Order and to say what he did as regards the importance of carrying out fully the orders of the Court.

It should be said secondly that a Community Service Order is an alternative to a sentence of imprisonment and that if somebody fails to carry out those Community Service Orders to the satisfaction of the supervising officer, then unless there are exceptional circumstances it would be quite proper to impose the prison sentence which would otherwise have been imposed. But having said that we feel there is much in what you have said, Mr Renouf, about the fact that the learned Assistant Magistrate did not appear to be given sufficient information by the Centenier to enable him to see what the background to this case was. Had he done so he might well have imposed a different sentence and therefore, looking at the background, we are going to reduce the sentence of 3 months which he imposed; we think the appropriate sentence would have been one of 1 month and we substitute that for the sentence of 3 months. We think it right that there was a prison sentence; we should say that; and we also say, (and this is for Miss Nicolle to note), that in cases where the accused person is brought back to Court by a Centenier, it is not only desirable but we think essential that the Centenier who first presented that person should bring that person back to Court, so as to acquaint the Magistrate, (whether it is the one who sat before, in which case he will remember something about it, or another one), with the essential facts in order that the Magistrate before whom the person is recalled will be in a proper position to evaluate the facts.

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Authorities cited:

R. -v- Whittingham (1986) 8 Cr. App. R. (5)