

ROYAL COURT

25th July, 1988

Before: The Bailiff and
Jurats Blampied, Baker, Orchard and Gruchy

Her Majesty's Attorney General

- v -

Rickie Michael Tregaskis

Sentencing on one count of grave and criminal assault to which the accused had pleaded guilty. In addition, breach of probation order and sentencing on offences for which accused had been placed on probation (various counts of breaking and entering and larceny, breaking and entering with intent, malicious damage and motoring offences under the Road Traffic (Jersey) Law, 1956.

Advocate S.C. Nicolle for the Crown
Advocate G.R. Boxall for R.M. Tregaskis

JUDGMENT

BAILIFF: Dealing first with the offences for which Tregaskis was placed on probation, we have examined the conclusions of the Crown Advocate, and have had regard also to the sentence which was imposed on his co-accused, and we can see no reason to alter the conclusions asked for. So far as the previous offences are concerned, you are sentenced to a total of eighteen months, as recited by the Crown Advocate. Turning to the new indictment, there was some discussion amongst the Jurats as to whether, indeed, a sentence of twelve months properly reflected the gravity of an assault of this nature, when a person was savagely attacked for no reason at all by a drunken man who had to be dragged off by his co-accused, after both of them had inflicted a quite serious injury upon this man. However, no weapon was used, apart from the feet, and we were not told whether or not either of the accused were wearing heavy boots, otherwise the sentencing might have been more severe. The Court has seriously considered whether or not it ought to increase the conclusions on that count and it did so in spite of the sentence of four months imposed by the Police Court in respect of Tregaskis's co-accused. There is an authority which is to be found in the Court of Appeal case of R. -v- Finding, which was heard on the 28th November, 1978, before Widgery C.J., Shaw L.J., and Drake J. The headnote to that case in Criminal Appeal Reports (28th November, 1978), says this:-

"Where a court has to deal with an offender whose accomplice has already been sentenced by a different court, and has received a sentence which in the view of the court presently dealing with the offender is unduly lenient the court should impose whatever sentence it considers appropriate to the offender, without regard to the sentence imposed on the accomplice".

Drake J., who gave the judgment, enlarges on this by saying:-

"Where a second judge is faced with a situation in which a co-accused has already been dealt with in a manner which the second judge thinks is wrong, the second judge should do his duty and pass the sentence which he thinks appropriate and leave it to this Court to review the matter, if it thinks it right to do so. In the circumstances of this case we think that the second judge, the Deputy Circuit Judge, was entirely right in the sentence that he passed on the appellant, and this Court sees no reason for

interfering with the sentence".

Having said that, the Court was minded to apply that principle but it also had regard to the totality principle. It felt that if the conclusions were increased beyond twelve months, added to the eighteen months, that would distort the totality principle. Therefore the Court again felt that on the new indictment it should grant the conclusions of the Crown Advocate.

Therefore, Tregaskis, you are sentenced, so far as the first group of offences is concerned, to a total of eighteen months and so far as the assault is concerned, to a total of twelve months, making a total of thirty months.

Authority referred to in the judgment:

R. -v- Finding Cr. App. R. 28th November, 1978.

Other authorities referred to:-

Thomas' Principles of Sentencing (2nd edition) at p.p. 56 and 103.