

ROYAL COURT

(Superior Number)

(exercising the appellate jurisdiction conferred upon it by Article 22 of the Court of Appeal (Jersey) Law, 1961).

7th July, 1989

Before: The Bailiff and
Jurats Coutanche, Vint, Lucas,
Le Boutillier, Bonn, and Gruchy

Her Majesty's Attorney General

- v -

John Charles Last

Application for leave to appeal against the sentence of 18 months' imprisonment passed on him by the Royal Court (Inferior Number) on 12th May, 1989, following guilty plea to 4 counts of maliciously setting fire to material, contrary to Article 17(2) of the Fire Service (Jersey) Law, 1959.

The Attorney General
Advocate R.J. Renouf for the applicant.

JUDGMENT

THE BAILIFF: First of all this is an application for leave to appeal to the Full Court of the Appeal Court, rather than an application to a Single Judge (myself) which I have previously refused.

Having considered the matter we have decided to grant leave and therefore consider the application as an appeal proper. As I told you, Mr. Renouf, I advise the Jurats on the law which in this case I believe was this that they should first consider whether the sentence imposed by the Inferior Number was wrong in principle. Secondly, if it was not, whether it was manifestly excessive. Thirdly, whether, notwithstanding their decisions on both those questions being in the negative, they wished to exercise mercy because of any particular circumstances of the case.

The Court was unanimous in deciding that the Inferior Number did not misdirect itself. The decisions cited to them of R. -v- Slater (1979) 1 Cr. App. R. (S) 349 and R. -v- Willis (1979) 1 Cr. App. R. (S) 156, indicated quite clearly that arson is a very serious matter. Although it is perfectly true that you, Mr. Renouf, produced some cases to show (and it was accepted by the Attorney General) that in some circumstances it is possible for the Court - as it has done on occasions - not to impose a custodial sentence, normally the Royal Court is entitled to impose a custodial sentence in cases of arson.

This particular case involved three separate occasions which were in fact repeated and the Court was quite entitled to have regard to the fact that had it not been that the police fortuitously caught Last on the final occasion, others might have occurred. There was a risk, the Inferior Number considered, that they might occur again. The Court was unanimous in reaching its conclusion that they were entitled to take that view. Therefore the appeal is dismissed.

So far as the point you raised, Mr. Renouf, about assistance, the Court, of course, notes and you must know that after the sentence is served he will receive after-care from the Probation Service. Of course the Court acknowledges that the Inferior Number expressed itself as being sensitive to the difficulties Last has had but these were not a reason we think (and the Court was unanimous) for exercising mercy. We do not think that the sentence was unjust and under all the circumstances as I have said the appeal is dismissed. You shall have your Legal Aid costs, Mr. Renouf.

Authorities

R. -v- Slater (1979) 1 Cr. App. R. (S) 349.

R. -v- Willis (1979) 1 Cr. App. R. (S) 156.

Thomas: Principles of Sentencing: (2nd edition) p. 211.

Sentencing Statistics Sheets (at Crown Officers Dept):

Daly (19 Jun '87)

Moseley (06 Oct '72)

Taylor (31 Jan '83).