

ROYAL COURT

8th September, 1989

Before: The Deputy Bailiff and
Jurats Lucas & Le Boutillier

Her Majesty's Attorney General

- v -

Sean Mullalley Chalke

Infraction of Article 17(2) of the Fire
Service (Jersey) Law (1959) - (Maliciously
setting fire to material, being the
property of another).

The Solicitor General
Advocate A.D. Robinson for the defendant.

JUDGMENT

DEPUTY BAILIFF: We have given anxious consideration to this case, particularly in regard to the sentence imposed on Last. We have examined the sentencing Court's remarks in that case. The Court said that in three of the four offences there could have been very serious property destruction. The fire could have spread to the first building and then from that property to a lot of others and therefore there was potentially very serious damage. Nevertheless, the Court reduced the sentence to eighteen months to equate it with the English case of Slater.

In the present case the potential damage was probably less, but the whole of the outbuildings in which the fire was started could have been destroyed. However, there are two important factors here which lead us to believe that the conclusions of the Solicitor General are correct. The first is that Chalke had reached his home and then decided to go down to Mr. Le Brocq's farm deliberately to start a fire. There was an act of trespass; indeed it was illegal entry because the intent to commit a crime already existed. The fire was started within the building. Straw is highly combustible, which even a person of low intellect must know. This is to be distinguished from Last who set fire to refuse which had been put out by the occupiers of property for collection. He did so on impulse as he passed by. There was not the same degree of deliberation.

The second factor is that Last was treated as a first offender. In the present case Chalke had a previous conviction for arson and whilst we cannot sentence him for the original offence, the previous conviction is a strong factor negating much of the mitigation. We can take into account that he was on probation and committed the present offence only eight months after being placed on probation. Therefore we consider that all the mitigation is fully reflected in the Solicitor General's decision not to move that the case be sent before the full Court.

Chalke you are sentenced to two years' imprisonment.

Authorities cited:

A.G. -v- Last (12th May, 1989) Jersey Unreported.