

182.

ROYAL COURT

1st November, 1989

Before: Commissioner P.R. Le Cras and
Jurats Vint and Vibert

The Attorney General
- v -
Conrad Austin Robinson

Appeal against conviction in respect
of one charge of causing a public
nuisance. (Originally appeal
against sentence; application to appeal
against conviction allowed by the Court
during hearing of appeal).

Advocate S.A. Pearmain for the Crown
Advocate A.R. Binnington for the appellant.

JUDGMENT

COMMISSIONER LE CRAS: We note Mrs. Pearmain's statement that if the charge does not exist the Court is in a position to quash the conviction. In our view this charge cannot stand. The facts here clearly show that the conduct of the accused was not a public nuisance on the authorities which have been cited to the Court this morning. Furthermore, we wish to add that if those prosecuting wish to use this charge in proper circumstances then proper

details of the facts which the accused must meet must be given on the charge sheet.

We wish, however, to add, so far as sentencing is concerned, that we have heard this morning a statement from counsel acting on instructions as to two incidents which were quite clearly not put to the learned Magistrate. There is no further evidence, apart from counsel's statement that these incidents took place, but if they did so we are disturbed that the visit to the psychiatrist was not mentioned to the Court and we are also disturbed as to why there should have been no mention of the suicide attempt.

It is clear to us that in these circumstances if these facts existed and had the Magistrate been made properly aware of them, we are confident that he would have approached the question of sentence in a different way.

Robinson, stand up will you please. You are therefore discharged, your conviction is quashed. We note that you are going to seek psychiatric help. You would do well to do so would you not. If you are suffering from a head injury and/or depression you might perhaps consider whether you should drink alcohol and no doubt you will seek advice on this when you see the psychiatrist.

Authorities

Commissioner's Report (1846) p.422

Clarke and Lindsell on Torts (15th Ed.) Chap. 23.

Archbold 43rd Ed. paras. 27-44 - 27-46.

A.G. -v- P.Y.A. Quarries (1957) 1 All E.R. 894-909.

R. -v- Madden (1975) 3 All E.R. pp.155-159.