

ROYAL COURT

20th December, 1989

210.

Before: F.C. Hamon, Esq., Commissioner, and  
Jurats Vint and Gruchy

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Police Court Appeal: Adam Craig Young

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Appeal against total period of imprisonment  
of three months following a conviction on  
charges of breaking and entering and  
malicious damage

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The Attorney General for the Crown  
Advocate P.A. Bertram for the appellant.

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**JUDGMENT**

COMMISSIONER HAMON: What the appellant did was planned, it caused substantial damage and it was motivated by greed. The prison sentence in our view was positively justified. There is, Mr. Bertram, nothing in the original ground of appeal. The accused is 23. Although he had applied for it a week earlier he was, on the day of his trial, offered a delay and, as the Attorney has reminded us from the transcript, he declined it. In his own words, Judge Dorey says to him: "You want to be delayed"? and he replies: "No, I want to get it finished with today".

Indeed, Advocate Bertram, you conceded to us that the guilty plea on the facts of the case and on the statement that your client had made, was almost inevitable.

If he was not to be represented, however, we think that a social background report was important perhaps to avoid any sense of grievance which the appellant possibly now feels. We appreciate that in the case of Lelliott, (29th November, 1989) Jersey Unreported, the Court there said: "While it is the established practice to call for a background report in these circumstances the practice is not invariable, it is not wrong in principle to desist from obtaining a background report where there are exceptional circumstances". Still, the general rule is the rule laid down in the case of A.G. -v- R.M. da Rosa (23rd May, 1981) Jersey Unreported, where the learned Bailiff said this: "It cannot be on every occasion that the Magistrates are required to obtain a background report before they sentence an accused person. That must be a matter for their discretion". The general rule which this Court has laid down of course is that it is the rule or the practice in a case where an offender is likely to go to prison for the first time, or where he is a very young man. The appellant is not a very young man, but he still has youth on his side and this was to be his first prison sentence. We of course do not know the facts of the case of Lelliott which made that case exceptional.

Where a young man is facing his first prison sentence and where that sentence was in our view inevitable we feel that a background report should have been prepared and therefore because of the sense of grievance which the appellant might feel we are prepared in these, we feel, exceptional circumstances to reduce the sentence by one month.

Mr. Bertram, you shall have your legal aid costs.

Authorities referred to:

- McC -v- Mullen and others (1984) 3 All E.R. 919 at 924.  
A.G. -v- D.N. Bowicz (23rd July, 1981) Jersey Unreported.  
A.G. -v- R.M. da Rosa (23rd May, 1981) Jersey Unreported.  
A.G. -v- A.P. Lelliott (29th November, 1989) Jersey Unreported.