

ROYAL COURT

28th March, 1990

42.

Before: The Bailiff, and  
Jurats Myles and Le Ruez

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The Attorney General

- v -

John Philip McConnachie

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The accused was presented before the Court for a breach of probation, in accordance with Article 5 of the Loi (1937) sur l'atténuation des peines, et sur la mise en liberté surveillée.

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Advocate C.E. Whelan for the Crown  
Advocate A. Messervy for the accused.

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JUDGMENT

BAILIFF: The Jurats were directed by me that the standard of proof was that of a criminal prosecution: beyond reasonable doubt; and they found that the accused, such as I may call him, is in fact in breach of probation, in that he was authorised to leave the Island for six weeks and stayed away for some three months. I concur with that finding.

We must say, Mr. Messervy, that we do not think this is a case, in view of all the circumstances, where a prison sentence would be

appropriate and we had in mind, we indicate to you, to allow the Probation Order to stand and to add to it, for the breach, a three months' probation period to run consecutive to the existing Order to make up for the time he has lost attending Mr. Hollywood.

Now, there are some other things I want to say of general application. It is unfortunate, in this case, that action was taken unilaterally by the Probation Officer concerned without waiting until the Attorney General had expressed a view on the matter. First, it is important in cases of this sort where persons are sentenced by this Court and difficulties are referred to the Attorney General in case of further prosecutions that nothing be done to make it more difficult for this Court to deal with the person under probation by, for example, allowing him to leave the Island.

Secondly, we think that whenever a person is put on probation either by the Magistrates, or by ourselves - this Court - that before he is allowed to go out of the British Islands the Courts should be informed and asked for their approval.

Thirdly, any alteration in the terms of probation agreed by the person under probation with the Probation Officer concerned should be in writing and signed by the person under probation to avoid the sort of difficulty that has arisen today. These are Practice Directions which we hope, Mr. Stephenson, the Probation Service will follow.

n.b: no authorities.