

ROYAL COURT

188,

7th December, 1990

Before: The Deputy Bailiff, and
Jurats Hamon and Le Ruez

Attorney General

- v -

Stephen David McDonald

Breaking and entering and larceny; malicious damage (2 Counts); taking a motor vehicle without owner's consent; driving whilst disqualified and driving an uninsured motor vehicle.

Only moved to Jersey in January, 1990. Premeditated breaking and entering. Initially evaded arrest but later entirely co-operative with the Police. Record of previous offences.

Conclusions: Count 1 (breaking and entering and larceny) 15 months' imprisonment.
Count 2 (malicious damage) 2 months' imprisonment, concurrent.
Count 3 (malicious damage) 2 months' imprisonment, concurrent.
Count 4 (taking a motor vehicle without owner's consent) 6 months' imprisonment, concurrent.
Count 5 (driving whilst disqualified) 3 months' imprisonment, concurrent and disqualified from holding or obtaining a licence for 15 months.
Count 6 (using a motor vehicle uninsured) 3 months' imprisonment, concurrent and disqualified from holding or obtaining a licence for 15 months, concurrent.

Non-motoring offences committed in desperation (attempt to obtain a deposit for accommodation) and whilst under the influence of alcohol. All stolen goods (with the exception of the cigarettes) now retrieved. Accused offered to pay for damage caused.

Advocate C.E. Whelan for the Crown.
Advocate S. Howard for the accused.

JUDGMENT

DEPUTY BAILIFF: The Court takes the view that the sentence proposed by the Crown is the correct and proper sentence.

We endorse that which Mr. Whelan said about the need to deter those who, newly arrived in Jersey, treat it as a place for easy pickings.

This was a deliberate breaking and entering for the purpose of stealing goods for disposal by a man with a bad criminal record exactly as in the case of Eastlake referred to us by Mr. Whelan. Therefore on the basis of that case a sentence of 18 months would have been justified. Accordingly, the 15 months asked for fully reflects all the mitigating factors.

We are unimpressed with the suggestion that desperation to re-establish himself should be a mitigating factor - and drink remains an aggravating and not a mitigating factor.

Therefore the conclusions are granted.

McDonald, on Count 1, you are sentenced to 15 months' imprisonment.

On Count 2, to 2 months' imprisonment, concurrent.

On Count 3, to 2 months' imprisonment, concurrent.

On Count 4, to 6 months' imprisonment, concurrent.

On Count 5, to 3 months' imprisonment, concurrent.

On Count 6, to 3 months' imprisonment, concurrent; making a total of 15 months' imprisonment; and on Counts 5 and 6 concurrently, you are disqualified from holding or obtaining a driving licence for a period of 15 months.

The Court has read the witness statement of Police Constable Jason Carpenter and we have no hesitation in commending him. McDonald was a man who was prepared to use his public-house friends to try to effect an escape. There was a potentially violent situation - indeed there was some actual violence - and the officer acted coolly and capably in a potentially dangerous situation. We also note that in the previous Jersey conviction McDonald violently resisted arrest and assaulted a police officer. Therefore, as I have said, we commend P.C. Carpenter.

Authorities referred to:

Thomas' Current Sentencing Practice - Part B (particular offences) -
in particular, the case of R -v- Eastlake (1980) 2 Cr. Ap. R(S)
183.

A.G. -v- Wheatley (5th January, 1990) Jersey Unreported.