

ROYAL COURT

36.

Superior Number

(exercising the appellate jurisdiction conferred upon it by Article 22 of the Court of Appeal (Jersey) Law, 1961).

28th February, 1991

Before: The Bailiff, and
Jurats Coutanche, Blampied, Myles,
Le Boutillier, Orchard, Hamon, Herbert.

The Attorney General

- v -

John O'Shea

Application of John O'Shea for leave to appeal against the sentence of eighteen months' imprisonment passed on him by the Royal Court (Inferior Number) on the 11th January, 1991.

For Appellant it was urged he was a young man (24 years old) - Sentencing Court, in its Judgment (11th January, 1991, Jersey Unreported) did not state that age of accused had been taken into account when fixing sentence - age is mitigating factor in early twenties.

Crown's authorities showed sentence comfortably within tariff.

Court refuses leave to appeal; if leave had been granted, and Court had had to consider sentence, sentence would have been felt to be slightly lenient.

C.E. Whelan, Esq., Crown Advocate.
Advocate N.F. Journeaux for the Applicant.

JUDGMENT

BAILIFF: We have had regard to the principles set out in Thomas to which Mr. Whelan has referred us, and to the fact that, although age is something to be taken into account, the extent to which it is taken into account diminishes as the young person after the age of 21 moves on into his twenties.

We have no doubt that the Inferior Number - although it did not mention it - took your client's age into account, Mr. Journeaux, and all the mitigating factors such as they were.

We cannot find that they failed to apply their minds to the case properly and therefore leave to appeal is refused.

I have also to say this: that had we granted leave and considered the appeal as such, we would have been minded to say that the sentence in our opinion, is on the low side. You shall have your legal aid costs, Mr. Journeaux. The Court is indebted to you for getting straight to the point on the one matter which you felt it was proper to bring to our attention.

Authorities

R -v- Murdoch (1981) Cr. App. R. (S) 142.

A.G. -v- Allo and Collins (1983) JJ 85.

Thomas: Principles of Sentencing (2nd Ed'n) pp 149-151; p 195-6.

A.G. -v- Aubin (1987-88) JLR N. 19.

Archbold (43rd Ed'n) para 7.63 et seq.

R -v- Morris: "Times": 16.12.87.

A.G. -v- Sampson (1965) JJ 495.