

ROYAL COURT
(Samedi Division) 153.

25th July, 1994

Before: The Deputy Bailiff, and
Jurats Blampied and Herbert

POLICE COURT APPEAL
(The Magistrate)

Judith Ann McMeiken

- v -

The Attorney General

Appeal against a sentence of 4 weeks' imprisonment with 3 years' disqualification from driving, imposed on 10th June, 1994, following guilty plea to 1 charge of contravening Article 16A(1)a of the Road Traffic (Jersey) Law, 1956, as amended.

Appeal allowed; sentence quashed, sentence of 1 year's probation with 50 hours community service substituted.

S.C.K. Pallot, Esq., Crown Advocate.
Advocate S.E. Fitz for the Appellant.

JUDGMENT

5 THE DEPUTY BAILIFF: We come next to the appeal of Judith Ann McMeiken. This appellant was convicted of an offence under Article 16A of the Road Traffic (Jersey) Law, 1956, and sentenced to 4 weeks' imprisonment and disqualified from driving for 3 years.

10 The appeal was put to us on the appellant's behalf by Miss Fitz that we should, as an act of mercy, quash the prison sentence in view of the interests of the 6 year old child of the appellant. We were told that the child has never been apart from her mother other than for a few hours at a time. There is no extended family living in Jersey who would be able to look after the child during her mother's incarceration. There is a grandmother who lives in England but apparently the child has never before stayed with the
15 grandmother in the absence of her mother.

The appellant is the deputy manageress in a public house and she has accommodation in or near the public house where she and the child live.

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The probation report which was prepared for the benefit of the Police Court does not make it clear to us what arrangements could or would be made for the care of the child if her mother were to serve a custodial sentence.

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We are therefore persuaded on balance to adopt the merciful approach, not, we emphasise, for the benefit of the mother, but for the benefit of her child. We are concerned for the welfare of this small child in the environment in which she lives if her mother were to serve the prison sentence which has otherwise been rightfully imposed for this offence - driving with a high level of intoxication.

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We therefore quash the prison sentence of 4 weeks' imprisonment imposed on Miss McMeiken and we substitute a sentence of 1 year's probation subject to a condition that she perform, to the satisfaction of the community service organiser, 50 hours of community service.

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Authorities

Current Sentencing Practice: pp.30402-30405: C.4: Effect of sentence on persons other than offenders.

Franklyn (1981) 3 Cr.App.R.(S.) 65.

Vaughan (1982) 4 Cr.App.R.(S.) 83.