

ROYAL COURT
(Samedi Division)

232.

18th November, 1994

Before: The Deputy Bailiff, and
Jurats Gruchy and Vibert

The Attorney General

- v -

Adrian Raymond Hakes

Application for bail, following remand to Extraordinary Criminal Assize, beginning on
21st February, 1995, after not guilty plea to:

1 count of demanding money with menaces.

C.E. Whelan, Esq., Crown Advocate.
Advocate N.M.C. Santos Costa for the Applicant.

JUDGMENT

THE DEPUTY BAILIFF: We are going to grant your application, Mr. Costa, and we will add a few words by way of explanation.

5 The guiding principle is, in our judgment, set out in Article 22 of the Loi (1864) réqlant la Procédure Criminelle which provides that an accused person remanded for trial by the Police Court should be presented before this Court on indictment on 'un jour rapproché', that is to say, 'a proximate date'.

10 The facts of this case are that the accused was presented before the Police Court on 13th May, 1994, charged with a relatively serious offence of demanding money with menaces. He pleaded not guilty to the charge and he was remanded in custody until 24th June, when evidence was heard and the Magistrate found
15 that there was a *prima facie* case to answer. He was then remanded for the signing of transcripts and the preparation of the Centenier's report until 22nd July, when he was committed, by the Magistrate, for trial by this Court.

5 It was not, however, until today that the indictment was laid. The Crown Advocate told us that the papers had not been received in the Law Officers' Department until 26th October and he accordingly submitted that there had been no undue delay in the laying of the indictment from the receipt of the case papers. He had made enquiries as to the reasons for the delay which had occurred between the 22nd July and 26th October, but no explanation had been forthcoming.

10 We have to say that it does not appear to us to be a significant factor that the Law Officers' Department was able to deal with the matter with relative expedition from receipt of the case papers. So far as the accused person is concerned the relevant time scale is that he was committed for trial by the
15 Magistrate on 22nd July and he was not presented before this Court until this morning.

20 We are not apportioning blame between the Law Officers' Department and the Police. We say simply that a delay of four months in a relatively straightforward case where the accused is in custody and there are no extraordinary circumstances does not fall within the letter or the spirit of the relevant statutory provision.

25 We are sure that the Attorney General will take steps to investigate how delays of this kind can be avoided in the future.

30 In the meantime it is unacceptable that accused persons should languish in custody for long periods awaiting trial.

35 We add, for the avoidance of doubt, that we are not laying down any specific period within which an indictment should be laid following committal by the Police Court. The statute does not do so and there may be extraordinary or special circumstances, by reason of the great complexity of the case or otherwise, which justify in a particular case a delay of the order which obtains here. Those circumstances however do not apply in this case.

40 We accordingly grant the application and we admit the accused to bail on his recognizance that he will appear before this Court whenever required to do so. There will be conditions, Mr. Costa. Firstly he will surrender his passport to the Police, if he has a passport. Secondly he will report weekly to Police Headquarters at 6.00 p.m. on a Saturday, the first reporting date to be
45 tomorrow. Thirdly, he will notify the Police of his current address and will undertake to notify them immediately of any change in address.

50 Mr. Hakes, you have heard what I have said in explanation of the Court's decision. You are bound over on your own recognizance to appear before this Court whenever required to do so and on that basis you will be remanded to stand your trial before the

Supplementary Criminal Assizes which begin before this Court at
10.00 a.m. on 21st February, 1995.

Authorities

- A.G. -v- Harris (3rd June, 1994) Jersey Unreported.
- A.G. -v- Coutanche (29th April, 1994) Jersey Unreported.
- A.G. -v- Comer (22nd September, 1994) Jersey Unreported.
- A.G. -v- de la Haye (11th November, 1994) Jersey Unreported.
- R. -v- Forrester (1988) 10 Cr.App.R.(S.) 33.
- Thomas: "Principles of Sentencing" (2nd Ed'n): pp.137-8.
- Loi (1864) réglant la Procédure Criminelle: Article 22.