

ROYAL COURT
(Samedi Division)

7th April, 1995

68.

Before: Sir Peter Crill, K.B.E., Commissioner and
Jurats Myles and Rumfitt

The Attorney General

- v -

James David Evans

1 count of attempting to pervert the course of Justice (the first indictment).
2 counts of receiving stolen goods (counts 1 & 2 of the second indictment).
1 count of obstructing a police officer in the execution of his duty (count 1 of third indictment).
1 count of acting in a manner likely to cause a breach of the peace (count 2 of the third indictment).
1 count of violently resisting arrest (count 3 of third indictment).
1 count of possession of a controlled drug (M.D.A.) contrary to Article 6 (1) of the Misuse of Drugs (Jersey) Law, 1978 (count 4 of the third indictment)

AGE: 22

PLEA: Guilty.

DETAILS OF OFFENCE: Count 1 (1st Indictment): Accepted £1,000 to accompany man wanted for grave and criminal assault off island. Counts 1 & 2 (2nd Indictment): Received stolen cheque book and paying in book, minimal value, for use in supporting false identity of wanted man. Counts 1, 2, 3 (3rd Indictment): Police trying to disperse large crowd outside late night disco. Evans shouting and swearing, asked to move on by police, refused to do so, said "Fuck off, scum bag". When arrested, struggled so that he and two officers fell against and broke plate glass window. Count 4 (3rd Indictment): On arrest was in possession of two capsules of MDA (Ecstasy).

DETAILS OF MITIGATION: Under financial pressure, yielded to temptation. Gullible. Was persuaded offence for which other man was wanted was less serious than it was. Hitherto (mainly) good character. Second set of offences committed while under stress following arrest for first offences.

PREVIOUS CONVICTIONS: One minor for disorder

CONCLUSIONS:

Count 1	(1st indictment):	8 months' imprisonment.
Count 1	(2nd indictment):	1 month's imprisonment, concurrent.
Count 2	(2nd indictment):	1 month's imprisonment, concurrent.
Count 1	(3rd indictment):	1 month's imprisonment, concurrent.
Count 2	(3rd indictment):	1 month's imprisonment, concurrent.
Count 3	(3rd indictment):	3 months' imprisonment, consecutive.
Count 4	(3rd indictment):	6 months' imprisonment, consecutive.

TOTAL: 17 months' imprisonment

SENTENCE AND OBSERVATIONS OF THE COURT:

Count 1	(1st indictment):	8 months' imprisonment.
Count 1	(2nd indictment):	1 month's imprisonment. Concurrent.
Count 2	(2nd indictment):	1 month's imprisonment. Concurrent.
Count 1	(3rd indictment):	1 month's imprisonment. Concurrent.
Count 2	(3rd indictment):	1 month's imprisonment. Concurrent.
Count 3	(3rd indictment):	3 months' imprisonment. Consecutive.
Count 4	(3rd indictment):	3 months' imprisonment. Consecutive.

TOTAL: 14 months' imprisonment.

Only in exceptional circumstances non-custodial for perverting course of justice. Financial pressure no excuse. Subsequent stress self induced.

The Attorney General.
Advocate J.D. Kelleher

JUDGMENT

5 **THE COMMISSIONER:** Dealing first with the count of attempting to pervert the course of justice; it is only in exceptional circumstances that the Court will not impose a custodial sentence. To do what you did strikes at the heart of the system of justice and prevents people being brought to book for their crimes and the Court has to show its displeasure by imposing a custodial sentence.

10 We cannot find that the Solicitor General has not allowed a sufficient discount from the starting point of 12 months and we are quite satisfied that an appropriate sentence for that count is one of eight months.

15 Secondly as regards the 2 counts of receiving stolen goods, we agree that they are of minimal value and were used only to further your attempt to help a guilty man escape, and therefore the sentences should be taken together, and run concurrently, so one month on each of those counts but concurrent with the sentence
20 imposed on the count of attempting to pervert the course of justice, still keeping to the total of eight months.

25 We then come to the public order matters and the MDA drug offence. Your counsel has pointed out, very fairly, the strain under which you were suffering but that was self-imposed. You were short of money, it is true, but that is not a reason for embarking on crime. The Court cannot condone that sort of behaviour and does not intend to do so.

Public order offences are different and distinct and we see no reason for departing from the conclusions which we cannot find are unreasonable.

5 Accordingly in respect of the public order offences, on count
1 (obstructing the police) you are sentenced to 1 month's
imprisonment; on count 2 (using the language you did and breach of
the peace) 1 month's imprisonment, concurrent; and on count 3
10 (violently resisting arrest) 3 months' imprisonment, consecutive
to the sentence imposed for attempting to pervert the course of
justice.

15 When we come to the question of the MDA drug, the Court feels
it can make a slight reduction on this count having regard to
other cases to which we were directed and we reduce the
conclusions from 6 months' to 3 months' but consecutive to the
other sentences. Therefore the total to which you are now
sentenced, is not 17 months' but 14 months' imprisonment. There
will be the usual order for forfeiture and destruction.

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Authorities

Current Sentencing Practice: Release 22: 8-iv-92: pp. 24501-24503.

A.G. -v- Lenton & Anor. (10th July, 1992) Jersey Unreported; (1992)
JLR N.10.

Archbold (1994 Ed'n) para. 28-22.

A.G.'s Reference No. 1 of 1990 (1990/91) 12 Cr. App. R.(S) 245.

A.G. -v- McLees (23rd October, 1992) Jersey Unreported.

A.G. -v- Russell-Biggie & Anor. (15th March, 1993) Jersey Unreported.