

ROYAL COURT  
(Samedi Division)

24th July 1995.

148.

Before: The Deputy Bailiff and Jurats  
Gruchy and Potter

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Police Court Appeal  
(The Relief Magistrate)

Steven Charles Cox

-v-

Attorney General

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Appeal against a sentence of 2 weeks' imprisonment with 2 years' disqualification from driving passed on 9th June, 1995, following guilty plea to:

1 count of driving after consuming excessive alcohol, contrary to Article 16A(1) of the Road Traffic (Jersey) Law, 1956, as amended.

Appeal dismissed.

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J. G. P. Wheeler, Esq., Crown Advocate  
Advocate J. C. Martin for the Appellant

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JUDGMENT

DEPUTY BAILIFF: Miss Martin has said everything that can possibly be said on this appeal which, regretfully, we have to say we regard as hopeless.

5 Cox was stopped, fortunately without any accident having occurred, driving a motor cycle. When he was breathalysed he was nearly four but certainly over three times the acceptable limit

and we were told by Mr. Wheeler that he had drunk between eight to ten pints of beer. That is an awful lot of alcohol for someone who is attempting to drive a motor cycle.

5 Miss Martin says that Cox has not been in prison before and we accept that and we also accept that there is much to be said in his favour. But we feel that the learned relief Magistrate had to act on the guidelines that were presented to him and we have had a copy of those guidelines to look at this afternoon.

10 The offence falls within band D and the notes to the recommendation says this *"In band D the offender will invariably be remanded for the preparation of a Social Enquiry Report to be considered alongside the mitigation, the record, and the facts, before sentence is determined. The suggested range of custodial sentence will be considered unless exceptional circumstances relating to the offence an/or to the offender are present"*.

15 One of the things that Miss Martin told us was that Cox had not thought to have legal representation because he did not conceive that he would be sent to prison and in fact was led to believe at the time of the Social Enquiry Report that an alternative would be given to him.

20 We cannot see that he can possibly have understood that. Judge Dorey said at the first hearing on 12th May *"the fact that I am asking for a probation report does not make it any less likely that you will be sent to prison"*. And indeed we have looked not only at the paragraphs that Miss Martin asked us to look at but also at the social enquiry report as a whole and in the conclusion the probation officer, Mr. Bullivant, says this:

25 *"As to disposal of today's matter it is acknowledged that the very high breath/alcohol reading places Mr. Cox at risk of a custodial sentence and as a direct alternative he has been assessed as being suitable for community service and work is available for him to perform"*.

30 We are certain that Mr. Cox would no doubt have carried out community service extremely well but we feel that this is a case where the relief Magistrate had no alternative but to follow the guidelines which have been set out for him to follow and on the basis of his sentencing, although we appreciate how tragic it is for a man of this reputation to have to go to prison, we can see no reason to interfere with the decision and therefore the appeal is dismissed.