

ROYAL COURT
(Samedi Division)

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12th January, 1996

Before: The Deputy Bailiff, and
Jurats Myles and de Veulle.

The Attorney General

- v -

Aaron Nicholas McCool

- 1 count of aiding, assisting or participating in breaking and entering with intent to commit a crime (count 1A);
- 5 counts of aiding, assisting or participating in grave and criminal assault (counts 2A, 3A, 4A, 5A, 6A);
- 1 count of larceny (count 7);
- 1 count of malicious damage (count 8).

Plea: Guilty.

Age: 22.

Details of Offences:

Late night birthday party at friend's flat. Row broke out between defendant and friend at the party. Defendant ejected. Returned thirty minutes later issuing challenges to fight. Defendant again repulsed. He went to home of Andrew Stopher. Invited Stopher to come with him to the party to fight. Stopher armed himself with large heavy pick-axe handle. When the two men arrived, defendant shouted 'come on, let's go for it'. Stopher broke the door down. Defendant followed him in. Five men were in the flat - all sound asleep. Stopher beat each one severely with the pick-axe handle. Defendant joined in, but only punching and kicking two of the victims. Severe injuries - all victims bleeding and unconscious when Stopher and defendant quit the scene. One victim able to raise the alarm. Victims hospitalised for between 36 hours and 10 days.

Separate offences of larceny and malicious damage. Motor car 'hot-wired' and driven to St. Catherine's Bay with an accomplice. Car pushed into reservoir. Mindless vandalism. Separate occasion defendant boarded private boat in St. Catherine's harbour intending to take-it away. Damage to value of £84 done in the attempt which was abandoned.

Details of Mitigation:

Relative youth. Eventual co-operation and guilty plea.

Previous convictions:

Six drink-related between 1987 and 1991. Nothing of this gravity. Nothing in preceding four-year period.

Conclusions:

Count 1A:	2 years' imprisonment.
Courts 1A-6A:	3½ years' imprisonment on each count, concurrent.
Count 7:	6 months' imprisonment, consecutive.
Count 8:	2 months' imprisonment, concurrent.
TOTAL:	4 years' imprisonment.

Sentence and observations of the Court:

Count 1A:	2 years' imprisonment.
Count 2A-6A:	3 years' imprisonment on each count, concurrent.
Count 7:	6 months' imprisonment, consecutive.
Count 8:	2 months' imprisonment, concurrent.
TOTAL:	3½ years' imprisonment.

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

JUDGMENT

5 THE DEPUTY BAILIFF: What happened in the early hours of 30th October, 1994, was horrifying. The consequences might will have been worse than they actually were, but that in no way excuses behaviour which, as far as we are concerned, is as anti-social as one could imagine.

It will be necessary for us to set out again the facts as presented to us by the learned Crown Advocate.

The accused and his girlfriend introduced themselves to a group of men who were celebrating a birthday. Shortly before closing time all the men were invited to leave the "Belmont" public house, as they were clearly intoxicated. They all went
5 back to the flat of Mr. John Sharp where the offences occurred. At about midnight there was an argument between the accused and another of the men, Mr. Daniel Lakeman. It was an argument, apparently, over money and again the accused punched Mr. Lakeman in the face several times. Eventually he and his girlfriend were
10 persuaded to leave the flat.

Some 45 minutes later he returned and knocked at the window, shouting for Mr. Lakeman to come outside and fight him. After some 10 minutes he eventually withdrew and the party at the flat
15 settled down to sleep. Mr. Ronald Booth was in the bedroom; Mr. Daniel Lakeman was in an armchair in the lounge; Mr. John Sharp was sitting on a sofa in the lounge, as was Mr. Steven Le Geyt; and Mr. Arthur Ward was lying on the floor in front of the television. All these men, having celebrated the birthday, were
20 by then too drunk to know that the flat had been broken into and each was attacked and beaten severely with a pick-axe handle. Although one of the men, Mr. Steven Le Geyt, apparently remembered McCool hitting Daniel Lakeman with a weapon, there was nothing in the prosecution case that makes any suggestion that this weapon
25 was handled by anyone other than Stopher, his friend.

None of the men assaulted could remember how they received the injuries that they undoubtedly did receive. These injuries were severe and we feel it necessary to detail them as the Crown
30 Advocate detailed them to us.

Ronald Booth sustained a 6 cm. deep laceration to the back of his head which required 22 stitches and a small cut to his right ear.

Daniel Lakeman received a 4 cm. laceration above his left eyebrow. Also a 6 cm. deep laceration on the posterior aspect of his head with an underlying depressed skull fracture and a fracture of his left shoulder.

John Sharp received a 5 cm. laceration to the posterior aspect of his head. He also received a 5 cm. deep laceration to his forehead. He also had a 1 cm. laceration above his right eyebrow. He suffered bruising and a swollen left shoulder and elbow with decreased range of movement and a painful injury to his left wrist and thumb. X-rays revealed a fracture to his left elbow and he received 21 stitches to the lacerations on his head.

Steven Le Geyt received a 4 cm. laceration on the left side of his forehead which was treated also with stitches. His left eye was bruised and swollen. There was a deep 3 cm. laceration through his upper lip on the left side which was treated with stitches. Swelling on his left cheek when X-rayed revealed a fracture of his left side cheek-bone and finally a displaced and fractured left index finger, with associated lacerations requiring surgery and stitches.

Arthur Ward suffered a displaced and compound fracture of his mandible. Several lower teeth were loosened and some removed. A 4 cm. laceration on the under aspect of his chin. A bruised and swollen left hand with particular tenderness on the second, fourth and fifth fingers and a hairline fracture to the hand. The laceration to his chin was sutured. His left hand was plastered and he had to undergo surgery to repair the mandibular fracture.

We also need to note that all of the five victims were detained in hospital for varying periods of time, ranging from 36 hours to 10 days, but obviously, because of the amount of alcohol

they had consumed, it was difficult for them to identify their assailants.

5 In May, 1995, McCool and the late Andrew Philip Stopher were interviewed under caution and made statements which we need not repeat here. Those statements made it clear that whilst Stopher was the main perpetrator of the assaults, McCool had taken part, although McCool only admitted his participation finally on 11th May, 1995, when the evidence against him was all but overwhelming.

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Those assaults form the first six counts of the indictment. McCool, although charged with grave and criminal assault, has pleaded guilty - and his plea has been accepted - to the lesser offence of having aided, assisted or participated in the act of grave and criminal assault and he has also stated - and the fact is accepted by the prosecution - that he did not at any time wield the axe handle.

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We have also heard of the theft and destruction of a motor car by McCool and the late Stopher and the malicious damage to a cabin cruiser by McCool, apparently again with Stopher and Hannaford.

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The accused was indicted on 12th May, 1995, and has been in custody since then. We can understand that because all the offences are very serious.

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The assaults on people unconscious with drink and unable to defend themselves are absolutely horrific. Well before the acts took place, McCool knew that Stopher had armed himself with a large pick-axe handle. He must have known that in approaching the flat with that pick-axe handle, Stopher intended serious violence. Stopher and his attitudes were not unknown to him.

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McCool clearly participated in the offences, he not only, in his words, "chinned" somebody, but he watched Stopher bludgeoning the victims and, of course, he himself kicked a selected victim of his own. When the mayhem was over he took Stopher's bloodstained jacket to wash off the stains.

The Crown Advocate has pointed out matters of aggravation upon which this Court agrees. This was drunken aggression and unprovoked. There was a desire for violent confrontation which persisted - on the facts given to us - over a very long period of time.

Stopher may well have been procured for the purpose of carrying out McCool's violent intent. What is most serious is that the men, after the assault, were left bleeding in a room and the accused had no way of knowing how seriously they were injured. One or several of them might well have died. There was blood everywhere and they were seriously injured.

The accused covered his tracks for six months and only admitted his guilt when he was unable to escape it.

We have carefully considered the two cases cited to us by the learned Crown Advocate, Norris -v- A.G. (28th September, 1992) Jersey Unreported CofA, which dealt with the question of the nature of the weapon used. In that case it was a particularly heavy 'biker' boot and the victim was kicked in the face with the boot whilst on the ground. We also had regard to A.G. -v- Hollman & Ors. (16th January, 1995) Jersey Unreported, where the Court said this:

"The episode that evening at the lodgings of the victim was nothing short of disgraceful. However much provocation and discord there might have been, and even though the other person might have persisted in his annoyance and irritating behaviour, that does not justify

going to his private house breaking down the door in company with two other people, and the various assaults that happened subsequently".

5 The Court went on to say:

"So far as Cummins is concerned the Court is struck by the fact that he went home and collected a weapon which he intended to use".

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The learned Crown Advocate put the participation of McCool in this way. He said that he had *"lit a fuse and did not care for the consequences"*. That is that he procured the help of Stopher and did not prevent the gross violence that ensued.

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By way of mitigation we have had regard to McCool's relative youth and the fact that the present violence is much more serious than others that have gone on his record. The gravity of the matter alone would have left us in no doubt but that we would follow the conclusions of the learned Crown Advocate.

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However, we have had put to us two most unusual references, one from the officer in charge of the Homeless Young Persons Project and the other from the Children's Officer himself. These, surprisingly, seem to show that McCool has acted in a most public spirited way towards a considerable number of people less fortunate than himself. For that reason and for that reason alone we are prepared to take six months off the sentence proposed by the learned Crown Advocate.

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McCool, would you stand up, please. On count 1, you are sentenced to a term of 2 years' imprisonment; on count 2A, you are sentenced to a term of 3 years' imprisonment, concurrent; on count 3A, you are sentenced to a term of 3 years' imprisonment, concurrent; on count 4A, you are sentenced to a term of 3 years' imprisonment, concurrent; on count 5A, you are sentenced to a term of 3 years' imprisonment, concurrent; on count 6A, you are

sentenced to a term of 3 years' imprisonment, concurrent; on count
7, you are sentenced to a term of 6 months' imprisonment,
consecutive; on count 8, you are sentenced to a term of 2 months'
imprisonment, concurrent with count 7; making a total of 3½
5 years' imprisonment. We order the forfeiture of the pick-axe
handle.

Authorities

A.G. -v- Hollman & Ors. (16th January, 1995) Jersey Unreported.

Hollman & Ors -v- A.G. (4th April, 1995) Jersey Unreported CofA.

Norris -v- A.G. (28th September, 1992) Jersey Unreported CofA.