

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-

Martin John Wakeling

- 1 count of breaking and entering and larceny including, pursuant to the provisions of Rule 1 of the Indictment (Jersey) Rules, 1972, as amended, 16 further offences of the same or of a similar character (count 1);
- 1 count of breaking and entering with intent to commit a crime including, pursuant to the provisions of Rule 1 of the Indictments (Jersey) Rules, 1972, as amended, 5 further offences of the same or of a similar character (count 2);
- 1 count of whilst knowing that a vehicle had been taken without the owner's consent or authority allowing himself to be carried in it, contrary to Article 28(1) of the Road (Traffic) Jersey Law, 1956, as amended, (count 3A).
- 1 count of larceny (count 4); and
- 3 counts of malicious damage (counts 5, 6, 7.)

Plea: Guilty

Age: 22

Details of Offence(s):

Opportunist burglaries of commercial premises over four month period. Some £4,800 in money and property stolen. Only partially recovered. Acted mostly in concert with Hannaford and/or Stopher [both of whom subsequently committed suicide in custody].

Details of Mitigation:

Eventual co-operation and guilty plea. SER made strong probation recommendation. WAKELING affected 'very significantly' by the deaths of his associates. Profound effect upon him offered best chance to date of true reform.

Previous Convictions:

Grim catalogue of similar previous offences, assault, malicious damage, motoring and alcohol-related offences. Last occasion imprisoned for 22 months.

Conclusions:

- Count 1: 3 years' imprisonment in respect of each of the 17 offences included in this count, concurrent.
Count 2: 2 years' imprisonment in respect of each of the 5 offences included in this count, concurrent.
Count 3: 3 months' imprisonment, concurrent, with 18 months' disqualification from driving.
Count 4: 6 months' imprisonment, concurrent.
Count 5,6,7: 3 months' imprisonment on each count, concurrent.

Sentence and Observations of the Court:

Probation recommendation followed in wholly exception circumstances: three years' probation [Crown's conclusions were right and would have been granted but for wholly exceptional circumstances].

S.C.K. Pallot, Esq., Crown Advocate
Advocate S.J. Crane for the accused

JUDGMENT

THE DEPUTY BAILIFF: We have to say this, the criminal record of Wakeling is lamentable. It involves, in this particular matter, larceny, malicious damage, breaking and entering and other offences with clearly no thought given to the distress and expense that such criminal activity involves.

In 1994, Wakeling received a sentence of 22 months' imprisonment for very similar offences. This present enormous spate of criminal activity began only six months after his release from prison in February and May 1995. The cost of the criminal spree is over £8,000, to say nothing of the damage and the distress involved. The entry into the Public Services building at St Brelade's Parish Hall, committed - as the learned Crown Advocate has reminded us - while the accused was on bail, clearly involved sophisticated planning.

We have no doubt, having regard to the case of A.G. -v- Aubin (14th May, 1987) Jersey Unreported, that unless there are truly exceptional circumstances the protection of the public requires a prison sentence and in that regard we have no doubt the

conclusions of the learned Crown Advocate are absolutely correct. He has taken 4 years and reduced it to 3 years for the plea of guilty and the eventual co-operation. We have to record that Wakeling is 22 years old.

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But the matter does not end there, because there is before us a background report prepared by the Probation Service and we have questioned Crown Advocate Pallot on that Probation Report. He says he is not moved by what is said in it and feels that the scale of offending is such that anything other than a custodial sentence is inappropriate.

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Mr. Crane has explained to us something of the background that led Wakeling into crime so shortly after his release from prison. His girlfriend, with whom he has apparently now broken up, was suffering psychological problems. Because of that, it appears from what we were told, he lost his job. He has, however, confessed to everything and there have been certain cataclysmic events in his recent life. His two compatriots in crime have committed suicide, and that has affected him. There was a dreadful car crash before that where two people were severely injured and that too acted as a catalyst. One of the injured persons, of course, was a Police Officer, who could very well have lost his life.

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Reading the Probation Report there is a very strong recommendation from the service that he be granted probation. I will quote it in part. It says this:

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"If there is ever going to be a time when this Department could begin to impact upon his behaviour in the long term, it is now."

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And that part of the report, and the report in general, of course, is written in the light of the fact that he has twice breached probation orders in the past.

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I have to say we have rarely seen a probation report which has such positive recommendations contained in it and where those recommendations are so explicit.

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We are going to take the calculated chance which has been offered us from the Probation Service, and we do this with some intense reservations. We are going to put you on probation for three years, Wakeling. Now, if you breach the probation order you will be brought back to this Court. You will lose the period of time that you have already spent on remand - I think it important for you to understand that - and you will be sentenced for these offences. It is only because of what we have read in the Probation Report and what Mr. Bullivant has told us this morning that we are prepared to go along that line; we realise the faith that we are putting in you. If you abuse the

recommendation that we are making, you will only have yourself to blame and you will go straight back into prison for a long term. Do you understand that? This is your opportunity and we hope you are going to take it.

Authorities

A.G. -v- Aubin (14th May, 1987) Jersey Unreported.

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey"
p.66.

A.G. -v- Wibberley (8th July, 1988) Jersey Unreported.