

ROYAL COURT
(Samedi Division)

234.

9th December, 1996

Before: Sir Philip Bailhache, Bailiff, and
Jurats Blampied and Le Ruez

The Attorney General

- v -

Carol Irene Maxwell

1 count of Vagrancy (count 1).

Plea: Guilty.

Age: 49.

Details of Offence:

Defendant had been in the Island for less than five years and had therefore not applied for welfare benefit. She was asked to leave the Shelter and, being without any form of income, declared herself destitute. The Magistrate had committed the matter to the Royal Court for a ruling on whether the offence of destitution still existed or had fallen into desuetude and, if not, for guidance on how the matter should be dealt with.

Details of Mitigation:

In most cases defendants were pleased to be dealt with for being destitute because, if they agreed to be bound over on condition they leave the Island, this resulted in the Island authorities paying for their return trip. A binding over order enabled a sanction to be applied if they returned although, if circumstances changed, a sympathetic view could be, and usually was, taken. The real question was whether the offence should be prosecuted. In this case the defendant had no home other than Jersey and she had mental problems. Nevertheless she now had accommodation and a job and an absolute discharge would be the appropriate sentence.

Previous Convictions:

One previous Court appearance for minor offences of dishonesty and being destitute.

Conclusions: 3 months' Probation, on condition of psychiatric treatment.

Sentence and Observations of the Court: Absolute discharge [reasons to follow: see Jersey Unreported Judgment of 19th December, 1996].

The Attorney General.
Advocate S.A. Pearmain for the accused.

JUDGMENT

THE BAILIFF: The Court has retired only for a very short time because it has determined the sentence which it considers ought to be imposed, but the reasons for the sentence the Court will deliver at another time.

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Miss Maxwell, will you stand up, please. The Court is going to grant you an absolute discharge and your counsel will explain that to you.

Authorities

Foster -v- AG (1992) JLR 6 CofA.

Commissioners' Report on the Criminal Law in the Channel Islands
(1847): pp.xxv; xxvii; p.1.