

ROYAL COURT

13th July, 1988

Before: the Deputy Bailiff,
assisted by
Jurats Vint and Le Ruez

Her Majesty's Attorney General

- v -

Denis Laurence Patrick O'Neill
and
Robert St John Williams

Appeal against a sentence of six months'
imprisonment imposed in respect of one count
of criminally breaking and entering
and larceny

Appeal against a sentence of three months'
imprisonment in respect of one count
of breaking and entering
and larceny

Advocate A.J. Olsen for the Crown
Advocate S.A. Pearmain for D. O'Neill
Advocate R.J.S. Fielding for R. St J. Williams

JUDGMENT

DEPUTY BAILIFF: In the Royal Court a sentence of twelve months' imprisonment is regarded as the bottom of the scale for the breaking and entering of commercial premises by night.

It is quite clear from the evidence that both appellants were inside the shop, stealing. In those circumstances it matters not which of them physically broke the glass in the shop door - it was a joint venture and they were equally responsible.

Once again, drink is put forward as an explanation - but it cannot be said too often that self-induced intoxication is an aggravating factor.

So far as O'Neill is concerned, he has a serious record of previous convictions and he was sentenced to two years' youth custody in May 1985, and eighteen months' imprisonment in June 1988, for offences of burglary and theft and handling stolen property. He is very fortunate that the Magistrate dealt with the case. The proper sentence would have been twelve months' imprisonment and he is very lucky that we are limited to the Magistrate's maximum powers.

The appeal is wholly without merit and is dismissed. Advocate Pearmain will have her legal aid costs.

As to Williams, so far as we know he has no previous convictions for offences of dishonesty, but he is not a person of good character and a custodial sentence was the proper sanction. A difference of three months properly marks the difference in the records. Again, Williams is very fortunate that the Magistrate dealt with the case, because the proper sentence in his case would have been one of nine months' imprisonment. This appeal, too, is dismissed. Advocate Fielding will have his legal aid costs.