

ROYAL COURT

12th October, 1988

Before: The Deputy Bailiff and
Jurats Vint and Hamon

Her Majesty's Attorney General

- v -

Andrew Colin Jones

Appeal against sentence of six weeks'
imprisonment imposed in respect of
one count of larceny.

Advocate C.E. Whelan for the Crown
Advocate T.J. Le Cocq for the Appellant.

JUDGMENT

DEPUTY BAILIFF: I turn now to the appeal of Jones. The decision of the Court to adjourn on Monday and to consider both appeals (Popleton and Jones) at the same time, albeit individually, has been shown to be fully justified.

The Magistrate had before him two background reports prepared by the Probation Service, albeit by different officers. It might in future be better if, when there are two co-accused, the same officer dealt with both reports because there are glaring and unexplained differences between the two reports.

According to Jones - at paragraph 7 of the report - he and his co-accused had unsuccessfully applied for work. Their failure, brought about frustration as they needed immediate money to pay a deposit on a flat.

However, the report on Poppleton at paragraph 5, says that the theft of the bottles of perfume was done as part of a scheme to sell them to provide the two with food to continue their search for work.

Basically, these two men are dishonest and the Magistrate was entitled to form his own view of the facts. It is patent nonsense to say that once inside the shop they impulsively decided to steal the bottles. A joint decision requires some discussion, however minimal, and we have no doubt that that discussion took place outside the shop. The bag was taken into the shop; no aftershave was bought. This was a premeditated theft for gain. The Magistrate, we also note, had before him the statement of the shop assistant and I refer to one of the paragraphs of her statement: "I left the shop and went to the top of the road and looked into one of the pubs to see if they were there, but couldn't see them. So as I was returning to the shop I spotted them on the other side of the road, strolling along, and as I watched them, I saw one of them go into another jeweller's shop whilst the other stood outside. The one that went into the shop was carrying the hold-all. About two minutes later he came out and they both walked over to the Park and down Cannon Street".

It seems that these two men may well have been on a premeditated shoplifting spree. Jones is an adult, he is not a first offender, therefore a custodial sentence was not wrong in principle.

As to the length, the Magistrate took into account the difference in the records of the two men and reduced the sentence imposed on Jones from four months to six weeks. We cannot find that the Magistrate exercised his discretion wrongly, or that the sentence was manifestly excessive.

We might add that we support the view expressed by the Relief Magistrate that there are far too many offences in this Island of people trying to live off the proceeds of dishonesty and that the time has come to

take a very firm policy. We hope that such a policy will be common to all the Magistrates.

The appeal is dismissed. Mr. Le Cocq will have his legal aid costs.

Authorities

Thomas' Principles of Sentencing (2nd Edition) pages 155, 156 & 195.

Jersey Law Reports 1985/86: Notes 6 & 7.

R. -v- Roth (1980) 2 Cr. App. R. (S.) 65.