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ROYAL COURT

15th February, 1989

Before: The Bailiff, and
Jurats Lucas and Le Boutillier

Police Court Appeal : Thomas Gerald David O'Shea

Appeal against sentences of
imprisonment totalling three
months on one count of fraud and
breach of a binding over order.

Advocate W.J. Bailhache for the Crown
Advocate C.J. Scholefield for the appellant.

JUDGMENT

BAILIFF: We have before us an application to change the appeal from one against sentence to one against conviction. It was decided that it really could not be done firstly because counsel did not press us to do it, and secondly, if we had we would have had to send the matter back, as counsel for the Attorney General said, to the Police Court in order that full evidence could be heard. We think that would keep matters boiling for too long, when it is the sort of case which should be disposed of as quickly as possible. Having said that we have looked at the circumstances and we have come to the conclusion that a sentence of imprisonment should be imposed because even Mr. Scholefield does not argue that it should not be; the question is it's length. The Court

wishes to say that in its opinion what the Crown has said that people should be deterred from coming to Jersey without money to look for a job is not something that meets with this Court's approval. There is no law which prevents people moving around the British Isles of which we are part, looking for work and accommodation. Of course there are difficulties. In the Court's view the offence of being destitute should be used very sparingly. Great care should be taken before bringing cases against people who through no fault of their own, (if it is through no fault of their own) find themselves destitute in this Island. We cannot, Mr. Bailhache, agree with your submission on that point. Having said that we have decided it was right to impose a prison sentence, but we are going to reduce it; and therefore on charge one, the sentence will be three weeks' imprisonment and on charge two, six weeks' imprisonment concurrent, making a total of six weeks' imprisonment. You will have your legal aid costs, Advocate Scholefield.

Authorities cited

R. -v- Missell, Ringle & Errington (1926) 19 Cr. App. Rep. 109 C.C.A.