

ROYAL COURT

7th August, 1989

Before: The Bailiff and  
Jurats Blampied and Le Boutillier

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Police Court Appeal: Alexander McLees

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Appeal against a term of imprisonment of four  
weeks imposed following a conviction  
on a charge of larceny of a bottle of  
Chanel No. 19 perfume.

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Advocate S.C. Nicolle for the Crown  
Advocate S. Slater for the appellant.

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**JUDGMENT**

THE BAILIFF: This is an appeal against conviction by Mr. Alexander McLees by the learned assistant Magistrate on the 14th July of having on the 10th June at about 2030 hours at the premises of Au Caprice, 11 King Street, stolen a quarter ounce bottle of Chanel No. 19 perfume. The main evidence for the prosecution before the learned assistant Magistrate, was that of identification. One of the witnesses, a Miss Oates, was one of the four members of staff who had noticed a man in Au Caprice about the time the perfume went missing. She it was who saw that man place the perfume in his pocket. She it was who identified that man shortly afterwards, who had returned to the outside of the shop. As a result of that identification the

police were able to follow that man, although they lost him, but eventually to catch up with him again in the Cosy Corner and it was indeed the appellant. The policeman concerned noticed that his trousers were torn, which was one of the identification marks which had impressed itself upon the four witnesses in the shop.

The accused himself admitted that he had been in the premises. There is some dispute as to exactly what he did there and what exactly was said between him and the members of staff, but he was there on his own admission. It is said that because the jacket he was wearing was described as a donkey jacket by the four assistant witnesses in shop, but by the accused and by the police as being more of an anorak, the coat or jacket he was wearing was not the one which the thief was wearing. We think that is not sufficient ground for putting doubt into the mind of the learned assistant Magistrate as to what had occurred on that occasion. The jacket itself was not produced in Court. It was supposed to belong to a friend of the accused; he was not produced either and the Magistrate was entitled to have regard to the fact that descriptions of clothes can vary from person to person; but basically it was a heavy jacket. Whether it was an anorak or donkey jacket, whichever was the exact description, is not material.

So far as the fingerprints are concerned, or lack of them, again it is clear that although the accused's fingerprints were not found on the glass, it would have been surprising if they had been, because many people, according to the evidence of the police, had in fact used or touched the glass from the time of the theft to the time that the scene of crime officer appeared the next morning. At any rate the glass had not been cleaned so it was difficult to say exactly what was expected to be found. It is quite true that fingerprints were not found, but the assistant Magistrate dismissed that matter as not of sufficient gravity to cause him to have any doubts.

We cannot find, Mr. Slater, although you have urged all you can in favour of your client's case that there was any misdirection of law, nor wrong finding of fact. That being so, we cannot and should not disturb the finding and therefore the appeal is dismissed. Mr. Slater, you may have your legal aid costs.

Authority referred to:

Cross on Evidence (5th edition) at pp 57 and 58.