Jrgs.

ROYAL COURT

9th July, 1990 98

Before: F.C. Hamon, Esq., Commissioner, and
Jurats Myles and Orchard

Police Court Appeal: Lee John Clarke

Appeal against sentence of four months' imprisonment imposed in respect of one charge of being drunk and disorderly and one charge of causing malicious damage.

Miss S.C. Nicolle, Crown Advocate
Advocate P. Harris on behalf of the appellant.

JUDGMENT

COMMISSIONER HAMON: On Sunday, 10th June, 1990, the appellant with his co-accused attempted to gain access to a nightclub. He had drunk, on his own admission, 15 pints of beer and clearly has a drink problem. The door was shut to him and he put his fist through the pane of glass and he was charged with malicious damage and being in complicity with another, drunk and disorderly.

We have carefully considered everything that Mr. Harris has said on his behalf and in fact Mr. Harris could have said no more than he has said. But quite clearly when one reads the transcript the learned Magistrate was referring to the appellant's record and he said this:

"Lang" (that is the co-accused) "you are very easily disposed of and I fine you £75 or 18 days. Don't get yourself into that position again and don't come to Court again. You, Clarke", (that's the appellant) "are less easy and there is from the time you arrived in this island trouble. On the 2nd June there was an assault on a male, there was a drunk and disorderly, there was a total of three weeks' imprisonment; on 5th July there was an assault on a male person, possessing an offensive weapon, a lock knife, violently resisting the police and there was a sentence in total of two weeks' imprisonment and a binding over for one year. We get to the 27th February, 1990, there was an assault on a female person, disorderly on licensed premises, breach of binding over order and there was a three months' imprisonment and fined £25 on those offences. I now have to deal with the breach of the binding over orders which I discharge and substitute one day's imprisonment therefor. But the sentence on these particular offences is one which will signify that the Court is tired of this behaviour and it will be one of four months' imprisonment on both counts concurrent and that is all".

We have considered whether we can go along with Mr. Harris and quash, in fact, discharge the prison sentence so that the probation period imposed upon the accused would continue to stand and he might then get some assistance for his drink problem. We do not think in the circumstances despite what Mr. Harris has said that we are going to interfere. We cannot consider that this sentence is manifestly excessive and it may well be that while the appellant is in prison he can meditate on whether or not he wishes to continue on a course which is going to lead him into much more serious trouble if it continues. Mr. Harris, you will have your costs.

Authoritiesn

A.G. -v- Cook (26th July, 1988) Jersey Unreported.