

ROYAL COURT

16th September, 1991 129.

Before: The Deputy Bailiff, and  
Jurats Coutanche and Vibert

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The Attorney General

- v -

David Neil Ramsey

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Police Court Appeal: Application by  
the appellant, under Article 17 of the  
Police Court (Miscellaneous Provisions)  
(Jersey) Law, 1949, to hear additional  
witness.

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W.J. Bailhache, Esq., Crown Advocate;  
Advocate N. Davies for the appellant.

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**JUDGMENT**

DEPUTY BAILIFF: Article 17 of the Police Court (Miscellaneous Provisions) (Jersey) Law, 1949, provides that the Court may direct that witnesses shall be heard before it at the hearing of any appeal under Article 14 in relation to any matter or thing

relevant to the appeal. That includes an appeal against sentence.

We are not satisfied that AG -v- Gorvel (1973) JJ 2503 applies in this case. That judgment relates to evidence on appeal following trial and conviction in an appeal against conviction. This is an appeal against sentence where there was no trial.

Our task is made no easier by the fact that neither counsel has produced authority on the practice and procedure of the Royal Court on appeal from the Police Court. This is not intended as a criticism because appeals from the Police Court are brought at short notice and transcripts are available only shortly before the hearing. The fact that the Court does not itself have the time to carry out its own researches because of the congested programme and the fact that the appellant is not on bail pending appeal does not simplify matters either.

The brief researches we have made tend to show that the Court has exercised an unfettered discretion under Article 17. We have found one case, albeit on an appeal against conviction, where the Court re-heard all the witnesses heard in the Police Court before deciding to reject an application by the appellant for an additional witness to be heard.

The Court is anxious not to create a precedent without full argument on both sides and our decision here is to be treated as turning on the particular facts of the particular case and not as a precedent for the future. The task of the Court is hampered by the fact that the practice and procedure of the Police Court has evolved over many years in a way which is quite outside the statutes. On the basis of the statutes an accused should be presented on a report from the Connétable, and all

witnesses should be heard. In this case, Advocate Sinel did ask that the evidence should be heard. As he said (and here I quote), "I don't think we could get to the bottom of it without having a trial relating to the specific facts, who said what or did what".

At the further hearing Mr. Sinel submitted that it would not be satisfactory or safe to base a sentence upon supposition which had not been proved. The police officer had given opinion evidence and had not limited himself to relating facts.

The Court is concerned with justice, first and foremost, rather than procedural niceties. We think that all the charges relating to this double christening party should have been heard by a single judge in one continuous hearing. All the evidence should have been heard, respecting, of course, the right of any accused person not to give evidence, and the rules about evidence of co-accused. The Magistrate should have made his findings of guilt, where necessary, and imposed sentences, where appropriate, at the conclusion of the entire hearing. We understand that some of the charges are not to be heard until October. We think that is unfortunate.

In fact, under the system which has evolved, the police officer was not giving evidence but merely outlining the facts, in the place of the Centenier, to lead to a sentence on a guilty plea. On that basis we are not really admitting further evidence, so much as allowing the police officer to complete his outline of the facts upon which the sentencing Magistrate operated.

Therefore, as I have said, without creating any precedent, we are prepared to hear Detective Constable Bray.

Authorities

Police Court (Miscellaneous Provisions) (Jersey) Law, 1949:  
Article 17.

AG -v- Gorvel (1973) JJ 2503.