

ROYAL COURT  
(Samedi Division)

16th May, 1994

96.

Before: The Deputy Bailiff, and  
Jurats Vint and Gruchy.

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Appeal from the Police Court (the Magistrate).

James Demore

- v -

The Attorney General.

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Appeal against sentence of 6 months' imprisonment with discharge of binding over order, passed on 19th April, 1994, following guilty plea to:

1 charge of larceny.

Appeal allowed; sentence quashed; sentence of 4 months' imprisonment substituted.

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Advocate S.A. Meiklejohn for the Appellant.  
Advocate Mrs. S.A. Pearmain on behalf of the  
Attorney General.

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**JUDGMENT**

**THE DEPUTY BAILIFF:** James Demore appeals to this Court against a sentence of 6 months' imprisonment imposed on him on 19th April, 1994, in the Police Court, for an offence of having stolen a crate of guinness beer valued at £20. Mr. Meiklejohn, on the  
5 appellants' behalf, submits that this sentence was manifestly excessive.

Counsel for the Crown, Mrs. Pearmain, replies that it is not manifestly excessive and that the sentence is in the public good  
10 having regard to the lengthy record which this appellant has and the number of opportunities which he has been given to reform himself.

The learned Magistrate in passing sentence expressed himself  
15 in this way:

5 **"Mr. Demore, it may sound savage but I think it's in your best interests and it's in the public interest; you will go to prison for 6 months and I'm sure when you come out, you will feel a lot better and a lot healthier and then we will see what we can do for you".**

10 When a court is dealing with petty offences, whether of being drunk and incapable or of petty theft, the sentence imposed must reflect the offence committed. It is true, as submitted by  
15 counsel for the Crown, that larceny is a different type of offence from being drunk and incapable, but in the context of this appeal, having regard to the items which were actually stolen, it is clear that this offence and indeed the appellant's recent offending, all have their roots in his alcoholism.

20 The Superior Number has made it clear that the ceiling for this type of petty offending is nine months' imprisonment, but that if a sentence of several months imprisonment is to be imposed, it must follow a logical progression of gradually increasing periods of imprisonment. The reason for this policy laid down by this Court is that it makes it clear to an offender that his offending is being treated increasingly seriously and it gives him the opportunity - whether he takes it or not - to  
25 reform.

30 We well understand the learned Magistrate's frustration with Demore and indeed we have little sympathy for this appellant. Nevertheless the policy laid down by this Court has not been followed. Demore was sentenced to six weeks' imprisonment in December, 1993, and to four weeks' imprisonment in February, 1994, for offences of being drunk and disorderly. Those sentences were followed in April by the sentence of six months' imprisonment which is now under appeal. We therefore allow the appeal, quash  
35 the sentence of six months' imprisonment, and substitute a sentence of four months' imprisonment.

Authorities

Thomas: Principles of Sentencing (2nd Ed'n): pp. 20,25: The intermediate and inadequate recidivist.

A.G. -v- O'Rourke (19th April, 1991) Jersey Unreported.

McGregor -v- A.G. (9th December, 1991) Jersey Unreported.

A.G. -v- Marie (24th April, 1992) Jersey Unreported.

Barbet -v- A.G. (28th September, 1993) Jersey Unreported C.of.A.