

ROYAL COURT
(Samedi Division)

20th February, 1995

36.

Before: The Bailiff, and Jurats
Bonn and Herbert

Police Court Appeal (the Magistrate)

Sean Roger Purden

- v -

The Attorney General

Appeal against a total sentence of 6 months' Youth Detention, passed on 29th December, 1994, following guilty pleas to:

- 3 counts of taking and driving away a motor vehicle without consent or other legal authority, contrary to Article 28(1), as amended, of the Road Traffic (Jersey) Law, 1956:
- Count 1: on which a sentence of 2 months' Youth Detention was imposed;
 - Count 4: on which a sentence of 2 months' Youth Detention (consecutive) was imposed;
 - Count 7: on which a sentence of 2 months' Youth Detention (consecutive) was imposed.
- 3 counts of driving whilst disqualified, contrary to Article 9(4), as amended, of the said Law:
- Count 2: on which a sentence of 2 months' Youth Detention (concurrent) was imposed;
 - Count 5: on which a sentence of 2 months' Youth Detention (concurrent) was imposed;
 - Count 8: on which a sentence of 2 months' Youth Detention (concurrent) was imposed.
- 3 counts of driving whilst uninsured against Third Party Risks, contrary to Article 2 (as amended) of the Motor Traffic (Third Party Insurance) (Jersey) Law, 1948:
- Count 3: on which a sentence of 2 months' Youth Detention (concurrent) was imposed.
 - Count 6: on which a sentence of 2 months' Youth Detention (concurrent) was imposed.
 - Count 9: on which a sentence of 2 months' Youth Detention (concurrent) was imposed.

Appeal allowed; sentence of Youth Detention substituted, which will allow Appellant's immediate release.

Advocate B. Lacey for the Appellant.
J.G.P. Wheeler, Esq., Crown Advocate.

JUDGMENT

5 THE BAILIFF: Sean Roger Purden appeals against the sentence imposed by the Magistrate for three sets of offences of taking and driving away motor vehicles, driving whilst disqualified, and driving without third party insurance.

10 The appellant has appeared before the Courts of the Island on a number of occasions charged with similar offences and has previously been sentenced to fines, Probation Orders, attendance at the Attendance Centre and Community Service Orders.

15 We agree with the Magistrate that these were offences, given the record and background of the appellant, which merited Youth Detention on the ground that danger to the public is caused by those who drive motor vehicles on the roads of the Island whilst uninsured against third party risks.

20 The sentence was not wrong in principle and indeed we would have found it difficult, but for the matter to which I shall come, to have reached the conclusion that 6 months' Youth Detention was a sentence which was manifestly excessive.

25 We have, however, noted that the appellant was extremely co-operative with the police and that the charges for two of the offences of taking and driving away motor cycles resulted from his own admissions. The police had no other evidence against the appellant, but for his own confession.

30 In our judgment it would have been right for the Magistrate, in the circumstances of this case, to have imposed concurrent sentences rather than consecutive sentences for those offences where the charges resulted only from his own confession.

35 For this reason and because, looking at his record, we consider that a jump from two weeks' Youth Detention to six months' Youth Detention is a substantial jump for a youth of 19, we are taking the view that the appellant has been punished enough.

40 We therefore allow the appeal. We quash the sentence and we substitute such a sentence of Youth Detention which will allow his immediate release.

Purden, I want to address some remarks directly to you. You have heard what the Court has said and I hope you have understood the reasons for arriving at the conclusion at which we have arrived. We understand that you have a keenness for riding motor cycles but you must understand that the Court cannot allow you to go round taking things which do not belong to you and placing other people at risk by riding on the roads of this Island without being properly insured.

You will know that as a result of previous offences which you have committed you are disqualified from driving for a period which expires on 28th April, 1996. A disqualification imposed by a Court is an order which it is very important that you should obey. You may however wish to know, and no doubt your counsel will give you advice about this after the hearing, that if you behave yourself and keep out of trouble for a period of time, it is open to the Magistrate to remove that disqualification. Whether the Magistrate will be prepared to review the Order and to give you back the right to drive a motor cycle before April, 1996, will depend very much upon your behaviour over the next few months.

You are being given a chance; the Court hopes that you will take that chance and you will know I am sure that you are able to go to the Probation Office and seek advice from them should you wish to do so.

No authorities.