

ROYAL COURT  
(Samedi Division) 112

19th June, 1995.

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

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Police Court Appeal (The Magistrate)

Kevin John Falle

- v -

The Attorney General

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Appeal against a total sentence of 4 weeks' imprisonment imposed in the Magistrates' Court on 1st May, 1995, following guilty pleas to:

- 1 count of assaulting a police officer in the execution of his duty, on which count a sentence of 4 weeks' imprisonment was imposed;
- 1 count of being drunk and disorderly, on which count a sentence of 1 week's imprisonment, concurrent, was imposed; and
- 1 count of violently resisting police officers in the execution of their duty, on which count a sentence of 3 weeks' imprisonment, concurrent, was imposed.

AGE: 21 years.

**DETAILS OF OFFENCES:**

2 a.m. grossly intoxicated outside Norma Jeans, Cattle Street. With empty glass in hand, approached WPC, shouted "If you want someone to fucking arrest, arrest me!". Smashed the glass. Challenged the WPC to arrest him, swearing and shouting loudly throughout. Police reinforcements arrived. Attempted to head butt one of the officers. In ensuing struggle lashed out punch at one of the officers striking him on his left ear. No injury of note. Foul abusive shouting until handcuffed and subdued in the police van. Sentenced by Police Court as follows:-

- Count 1 4 weeks' imprisonment.
- Count 2 1 week's imprisonment, concurrent.
- Count 3 3 weeks' imprisonment, concurrent [total 4 weeks].

**DETAILS OF MITIGATION:**

Albeit a bad record of dishonesty, drug dealing, etc., no previous re alcohol-related violence. Troubled childhood. Delinquent activities since the age of 6. Until this incident, had been making determined efforts to reform himself whilst serving sentences in respect of previous offences and after his release from custody on licence. Remorse.

**PREVIOUS CONVICTIONS:**

Numerous breaking and entering/larceny (seemingly drug-related) and one previous re supplying/intent to supply controlled drug for which 2 1/2 years' imprisonment.

**CROWN SUBMISSION ON APPEAL:**

The sentence of the Police Court was lenient. The appeal was without merit.

**DECISIONS AND OBSERVATIONS OF THE COURT:**

Appeal dismissed. But for the fact that the appellant had made attempts to reform himself since being released from prison, the Court made it clear that it would undoubtedly have increased the sentence imposed by the Police Court.

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S.C.K. Pallot, Esq., Crown Advocate.  
Advocate Mrs. S.A. Pearmain for the appellant.

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**JUDGMENT**

**THE DEPUTY BAILIFF:** This is an appeal by Kevin John Falle who was presented before the Police Court on 3rd April, 1995, charged with assaulting a Police Officer in due execution of her duty; with being drunk and disorderly; and with violently resisting three Police Officers in the due execution of their duty.

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10 There were three counts and on 1st May, 1995, Falle was sentenced to four weeks' imprisonment for the assault and one week and three weeks' imprisonment concurrent for the other two offences.

15 The facts were simple. On 2nd April, 1995, Falle had apparently been drinking very heavily. He had consumed, we were told, some 31 units of alcohol in fifteen hours. He must have been very drunk. At two minutes past two on Monday, 3rd April, WPC Pini stood outside a nightclub in Cattle Street when Falle approached her with an empty glass in his hand. He swore at her and smashed the glass to the ground and said to her "Go on, fucking nick me".

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None of this behaviour was apparently provoked by anything or anybody. Members of the public went to assist, a struggle ensued, and he was held against the doors of Jersey Telecoms. PC's Le Cornu and Smith arrived at the scene and when a third Officer, PC Cornelissen, arrived, Falle, apparently, tried to head-butt him. Falle lashed out with his fist at Sergeant Pashley and struck him, fortunately, a glancing blow on the left ear. He was arrested still swearing, shouting and struggling, put in a police van, taken to the station and detained.

He has a very bad record of anti-social behaviour and was in fact only released from prison on 16th September, 1994, having served a term of 2 1/2 years' imprisonment for drug dealing. His list of offences is very long but there is nothing involving drink or fighting.

We must say this: when the learned Magistrate said at p.3 of the transcript "Alcohol yet again" we are quite certain that he was referring to drink offences at large and not to the accused in particular.

Falle is still only 21 years old. When he saw his record the Magistrate ordered a social enquiry report and allowed him bail on conditions. Apparently the Magistrate - from reading the transcript at the time - was thinking of probation. But when the Court returned on 1st May, it had a very detailed social enquiry report before it.

The Magistrate invited a mitigation at large and Mrs. Pearmain, who had not represented Falle at the first hearing, gave a detailed argument which she has now amplified before us.

The Magistrate, as he was perfectly entitled to do, regarded the assault on Sergeant Pashley as serious and he sentenced Falle to the terms of imprisonment that we have outlined.

In his conclusion the Magistrate said that he could not overlook "this sort of behaviour". It seems important to us to establish that the sort of behaviour that this Court would wish to discourage is the issuing of challenges to the Police and to discourage young men in the ensuing struggle from attacking Police Officers in the due and proper execution of their duty.

Mrs. Pearmain has said everything that could possibly be said on Falle's behalf.

We would say something else. We wonder how a nightclub such as "Norma Jeans" would allow a man with so much alcohol in his bloodstream to be served with - as he apparently was - three bottles of 'Budweiser' beer and two bacardis with lemonade. He must have been very drunk when he arrived at "Norma Jeans"; he was certainly very drunk when he left; and he left with a glass in his

hand. We are going to ask the Attorney General to look into the matter. This does not, of course, help Falle.

5 We regret that a man with such an appalling record who is apparently at last trying to make some order out of his life should have lost so much in such a stupid way. We cannot allow the appeal and the sentence of imprisonment is confirmed.

10 We must say this, had we not taken into account the fact that Falle is attempting to pull himself together we might well have increased the sentence. Therefore, Falle, you are sentenced, as the Magistrate sentenced you, to four weeks' imprisonment.

Authorities

Thomas: "Principles of Sentencing" (2nd Ed'n): pp.105-107; 318.

Moore (1993) 14 Cr.App.R.(S.) 273.

Bell (1973) Cr.L.R. 318.