

ROYAL COURT
(Samedi Division)

21st August, 1995

165.

Before: The Deputy Bailiff, and
Jurats Le Ruez and Potter

Police Court Appeal
(The Magistrate)

Stephen George Hall

- v -

The Attorney General

Appeal against conviction in the Magistrate's Court on 18th July, 1995, following not guilty pleas to:

2 counts of contravening the Telecommunications (Jersey) Law, 1972 (count 1: making
a menacing telephone call; count 2: making an annoying telephone call).

Case remitted to the Magistrate's Court.

Advocate A.D. Robinson on behalf of the Attorney General.
Advocate J. Speck for the Appellant.

JUDGMENT

THE DEPUTY BAILIFF: One thing is clear to us and that is that a charge should be framed with sufficient particularity to give reasonable information of the nature of the charge.

5 The charge as framed reads like this: "the said Stephen
George Hall with having during the same interval of time, that is
between 1915 and 1930 hours on 26th April, 1995, in the Parish of
St. Peter, acted in contravention of Article 20(b) of the said
law, that is the Telecommunications (Jersey) Law, 1972, by making
10 use of the Public Telecommunications Service for the purpose of
causing annoyance, inconvenience and needless anxiety to another,

thus rendering himself liable to the penalties set forth in Article 20 of the said Law."

5 Now the general grounds of appeal before us this morning, as set out by the appellant and which were amplified by Mr. Speck, went like this: that the telephone call relating to this charge was not made by the appellant and was not claimed to have been made by him, according to the complainant. That is confusing in itself, but, as I say, Mr. Speck has expanded the matter a little
10 to us this morning. The way it was explained to us was this: Advocate Speck told us that when he saw the charge, he asked Centenier Goss for better information. He asked Centenier Goss who the recipient of the call was and he clearly understood that the recipient was Jason Baudet.

15 A further attempt to clarify the matter was made in an exchange between Centenier Goss and Judge Sowden and Advocate Speck during the trial and there is no doubt that up to a certain point in the trial, Advocate Speck was working his case on the impression that he had to deal with a complaint made by Jason Baudet.
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As the trial progressed, it became apparent that the telephone call was made to Mr. Terence McDonald who passed the information of the nuisance call on to Mr. Baudet. The information that Mr. McDonald had received was that Mr. Hall was threatening to burn Mr. Baudet's boat.
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That became apparent to Mr. Speck during his address to Mr. Sowden which appears at p.82 of the transcript. Mr. Speck was only able to say to Judge Sowden *"my submission, Sir, is that it doesn't amount to an offence in law; and he's not charged for that and that is that, Sir"*.
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35 Mr. Speck submitted that, being taken by surprise, his only argument was that the offence was not an offence in law. No law has been cited to us; no law was cited in the lower Court and the point of law seems to us to be not unimportant. It is that a call which causes annoyance, inconvenience, or needless anxiety need not be made to the actual person who is threatened, but can be made to a third party, who passes that information on.
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We cannot deal with the matter here because no law has been submitted to us at all. It would be quite wrong for us to acquit Mr. Hall on a technicality because it is much more than a technicality. Whilst we appreciate that Advocate Speck says that he was disconcerted, it seems to us surprising that he did not draw his concern to the Magistrate early on in the trial in a better way than he, in fact, did.
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We can see no alternative but to refer the matter back to the learned Magistrate in the circumstances for a re-hearing of what

should be a very small and limited point of evidence and law and we sincerely hope that that will not take up too much time.

No Authorities.