

ROYAL COURT

12th September, 1988

Before: The Deputy Bailiff and
Jurats Myles and Bonn

Police Court Appeal: Ronald Crossan

Appeal against various charges of assault, causing a breach of the peace and violently resisting the authority of Police Officers while in the lawful execution of their duty. All charges arose from a domestic dispute. The appellant had a fairly long criminal record which included convictions on similar charges to those present in the instant case.

Advocate J.A. Clyde-Smith for the Crown
Advocate S.A. Pearmain for the appellant.

JUDGMENT

DEPUTY BAILIFF: Several points need to be made in relation to this appeal. Firstly, as recently as the 8th June, 1988, the appellant had been before the Court for what were, in some respects, similar offences and had been bound over for one year. Therefore, to offend again on three occasions is a serious aggravating factor.

Secondly, people who abuse the trust placed upon them by binding-over orders and probation orders by offending again should, unless there are special circumstances, receive a custodial sentence to demonstrate that neither a binding-over order or probation is a "let-off".

Thirdly, to commit offences whilst on bail, which the appellant did on two occasions, is a serious aggravating factor.

Fourthly, this Court will not tolerate assaults on women and will support the Magistrates if they impose deterrent custodial sentences for such assaults.

Fifthly, offences committed to avoid arrest for an offence already committed, whether consisting of violent resistance of or assault on, police officers, should always be dealt with by means of a consecutive and not a concurrent sentence, even if forming part of the same transaction. Therefore the Magistrate was correct in law in imposing a consecutive sentence for the second offence on the first charge sheet, as directed by this Court previously. It is essential that the Courts should protect the police in the execution of their duty. In this case the police were acting properly in the execution of their duty and we reject completely the criticism of the police action.

Now, applying those principles to the present case:-

1. Two weeks' imprisonment for a breach of the peace which involved pushing a woman across a room, into a table, by a man who was subject to a binding-over order to be of good behaviour, is correct in principle and not a day too long in duration.
2. Two weeks' imprisonment, consecutive, for violently resisting the police, including the raising of clenched fists, is entirely proper.
3. One month's imprisonment, consecutive, for invading the home of a woman, banging her up against the wall and punching her in the face, in the presence of her nine year old son, if it is to be criticised at all, could only be criticised for being on the lenient side, particularly

where it is committed by a person already on bail.

4. One month's imprisonment for yet a further assault on a woman on a further occasion whilst on bail and subject to a binding-over order - an assault in the woman's own bed, causing considerable distress, a bleeding nose and a swollen lip - could well have merited an increased sentence. So the appellant should consider himself fortunate to have received a second sentence of only the same length.

If we approach this matter by applying the totality principle, which Mr. Clyde-Smith very properly advised us on, we think that two months and four weeks for the totality of the offences is not a day too long. Indeed, the final assault in the woman's own bed could have merited a three month sentence by itself. Therefore this appeal is totally without merit and is dismissed. Mrs. Pearmain, you will have your legal aid costs.

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Authorities referred to:-

Attorney General -v- D. Hughes, J.J. 15th May, 1987 - as yet unreported.

D.A. Thomas (2nd Edition) - p. 53 "The One-Transaction Rule"
p.56 "The totality principle".

Sentencing Law and Practice (Sweet and Maxwell 1985) - p.280 -
"(b) concurrent and consecutive sentences".

A.G. -v- D.J. Lelliott - J.J. 23rd April, 1985 - unreported.

A.G. -v- Jones - J.J. 31st July 1985 - unreported.

A.G. -v- M.P. Bloomfield 1985-86 J.L.R. Part 1 - N3.