

ROYAL COURT

28th September, 1990

140.

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

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The Attorney General

- v -

Sabir Aly Gulam Mamado

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Count 1: Using a false passport contrary to Section 26(1)(d) of the Immigration Act, 1971, as extended to Jersey by Article 3 of the Immigration (Jersey) Order, 1972.

Count 2: Assisting illegal entry contrary to Section 25(1) of the Immigration Act, 1971, as extended to Jersey by Article 3 of the Immigration (Jersey) Order, 1972.

Purchased and supplied forged passport; of limited means, but funded the scheme; sophisticated and pre-planned; potentially "valuable" information given by accused in interview relating to identification of manufacturers and suppliers of forged passports.

Count 1: 1 month's imprisonment.

Count 2: 9 month's imprisonment, concurrent, and fine of £2,000 (or in default of payment, a further term of six months' imprisonment, consecutive).

Guilty plea; first offender; financial obligation to family in India; remorse expressed; no financial gain; member of "Ismali" faith requiring assistance to spiritual brother (in this case, assisting illegal entry).

Conclusions varied.

Count 1: 1 month's imprisonment.

Count 2: 3 months' imprisonment, concurrent, and fine of £2,000 (or, in default of payment, 6 months' imprisonment, consecutive).

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Advocate C.E. Whelan for the Crown.

Advocate D.J. Lang for the accused.

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**JUDGMENT**

DEPUTY BAILIFF: The Court is going to deal with this case by a combination of custody and fine.

Firstly, we entirely agree with the words of Lawton LJ in the Court of Appeal in the case of R -v- Singh and Saini (1979) 1 Cr. App. R.(S.) 90 - trying to help a member of your own community to get into this Island illegally is a serious crime and it is one which in the ordinary way must be visited by a custodial sentence.

Having said that, the Court is not over-influenced by earlier cases here or in England because each case turns on its particular facts and particular circumstances.

In this case there was a great deal of pre-planning. Mamado obtained and provided the forged passport and planned some quite extensive travel to try to achieve his purpose. That alone makes this case different and more serious from the previous Jersey cases.

Mamado said that he had decided to go to Guernsey because he had heard that immigration control was very light there. I am sure that is not so but it does highlight the need for the Court to be severe in cases of this kind so that Jersey is not used as a back-door for entry into England or elsewhere in the common travel area.

So that in the opinion of the Court a sentence of nine months' imprisonment, for the offence itself, would not be a day too long.

However, we cannot ignore the particular circumstances of this particular case. We accept that the remorse is exceptional. We accept that Mamado was motivated by his religious faith, although we reject the suggestion that any faith can justify law-breaking. We do take into account the fact that Mamado has provided information to the

authorities which is potentially valuable and which may lead to action which will stem the pernicious trade in forged passports and documents. And because we must never overlook the quality of mercy, we do take into account the particular difficulties of prison life for someone of Mamado's race, culture and faith.

For all these reasons we are going to deal with the matter in this way:

Mamado - on Count 1 you are sentenced to one month's imprisonment. On Count 2 you are sentenced to three months' imprisonment concurrent but you are fined also the sum of £2,000 or in default of payment you will serve a further six months' imprisonment consecutive.

Authorities referred to:

A.G. -v- Isik: (5th April, 1988) Jersey Unreported.

A.G. -v- Mustapha and Ali: (16th July, 1984) Jersey Unreported.

A.G. -v- Hacque: (21st November, 1984) Jersey Unreported.

A.G. -v- Shori: (25th July, 1986) Jersey Unreported.

Thomas' Principles of Sentencing (2nd Ed'n) at p.p. 180-181.

Current Sentencing Practice at p.p. 2465-2466; in particular, the case of

R. -v- Singh and Saini (1979) 1 Cr. App. R.(S.) 90.