

ROYAL COURT

11th March, 1991 41.

before: The Deputy Bailiff, and
Jurats Myles and Orchard

Police Court Appeal: Anthony Paul Lelliot

Appeal against a sentence of six months' imprisonment imposed by the Police Court following conviction on a charge of grave and criminal assault.

Advocate S.C.K. Pallot for the Crown.
Advocate Mrs. M.E. Whittaker for the appellant.

JUDGMENT

DEPUTY BAILIFF: This appellant was sentenced to six months' imprisonment by the Police Court on the 29th October, 1990, for having committed a grave and criminal assault on a male person.

He appealed against that sentence and his appeal was considered by the Royal Court on the 19th November, 1990. One of the grounds of appeal at that time was that the Police Court had failed to order and thus to consider a report from the Jersey Probation and After-Care Service. The appellant is aged 19 and the Royal Court had ruled previously that young persons, i.e. under 21 years of age, should not be sentenced to imprisonment without the assistance of a background

report. The appeal succeeded to that extent although the Court said that a sentence of imprisonment was not wrong in principle.

The case was re-heard on the 5th February, 1991, when a different Magistrate, having considered a full report and having heard full submissions from Mrs. Whittaker, again imposed a sentence of six months' imprisonment. The appellant now appeals against that sentence.

The test is whether the sentence is wrong in principle or manifestly excessive.

Reluctantly we cannot find either. For a serious, unprovoked, street assault involving kicking to the head a sentence of six months' imprisonment is both right in principle and not a moment too long. The Magistrates of the Police Court are entitled to the support of this Court in trying to curb violence.

We have gone on to consider whether on grounds of mercy we should make an exception in this case but we cannot do so. The Court does give its support in this case to the Offending Behaviour Group but it is not appropriate for serious offences of street violence. We have some reservations, in any event, as to the extent to which this appellant could provide any real input into a group situation. We consider, however, that this appellant should have the benefit of counselling and we hope that the Prison Welfare Officer will be able to assist, even if counselling does go somewhat beyond her strict terms of reference.

We might add that we think a sentence of imprisonment is in the best interests of the appellant as well as of society. We say that because we are pleased by the support shown by the appellant's family and want them to understand our reasoning. The appellant will be kept apart from alcohol for a period of upwards of three months. He will have time to reflect. It is up to him to realise that on his release he must not drink other than in small amounts. Any counselling he may receive in prison will help him to do this. But this Court has to look at the public interest. Other young people must know that any street

violence will be dealt with severely. The appeal is dismissed. Mrs. Whittaker, you shall have your legal aid costs.

Authorities referred to:

Thomas (2nd Ed'n): Principles of Sentencing: pp 18-20: The Young
Offender.

David Anthony Cachia (14th February, 1980) Cr. App. R. 60.