

ROYAL COURT

11th October, 1991

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Before: The Deputy Bailiff, and
Jurats Le Boutillier and Coutanche

The Attorney General

- v -

Joseph Francis Gaughan

Breach of Probation

[see (5th April, 1991) Jersey Unreported.]

Miss S.C. Nicolle, Crown Advocate;
Advocate N.F. Journeaux for the appellant.

JUDGMENT

DEPUTY BAILIFF: we do think, as the Court said in AG -v- McConnachie, that any alteration in the terms of probation should be in writing and signed by the person under probation. Furthermore, the requirement for permission to leave the Island should be in writing. And we think that definite appointments with stated days and times for contact at the Probation Office would be preferable to the loose arrangement allowed here.

The Court in AG -v- McConnachie said: "These are Practice Directions which we hope the Probation Service will follow". Certainly the conditions for postponing a decision in this case - that is the conditions about the Drugs Advisory Service and regular contact with Mr. Trott - should have been in writing.

Having said that, we find in this particular case, that Gaughan had no possible excuse for behaving as he did. He treated the Probation Order with contempt. He thought he could do as he wished.

Only two weeks ago in AG -v- Ashford the Court said this: "It is often said that probation is a let-off. We must demonstrate that it is not - and that when a Probationer virtually ignores the terms of his Probation Order he will be punished. He will not have another chance". We endorse those comments.

Breaking and entering, even of commercial premises, by night is serious. And a six month sentence is a short one. Therefore in this case the Probation Order is discharged and Gaughan you are sentenced to six months' imprisonment.

Authorities

A.G. -v- McConnachie (28th March, 1990) Jersey Unreported.

A.G. -v- Brown (31st August, 1990) Jersey Unreported.

A.G. -v- Ashford (27th September, 1991) Jersey Unreported.