

ROYAL COURT
(Samedi Division)

85

3rd May, 1996

Before: The Deputy Bailiff, and
Jurats Orchard and de Veulle

The Attorney General

- v -

Mark Anthony Maloney

Application for review of Magistrate's decision to refuse bail on 26th April, 1996.

On 25th April, 1996, the applicant pleaded not guilty in the Magistrate's Court to 3 counts of theft, and was remanded on £200 bail to 23rd May, 1996.

On 26th April, 1996, the appellant pleaded guilty to one further count of theft, and was remanded in custody to 23rd May, 1996. Bail was refused.

Application refused.

S.C.K. Pallot, Esq., Crown Advocate.
Advocate R.G. Morris for the Applicant.

JUDGMENT

5 THE DEPUTY BAILIFF: The Applicant has a very bad record which includes violence and what Mr. Morris asks on his behalf essentially on this application is that on the consideration of the facts which he has put to us we will remit the matter back to the learned Magistrate for him to reconsider the matter and as Mr. Morris puts it "*in the light of all the relevant facts*".

There was a bail application before Judge Short on 26th April, 1996. It was a fairly detailed hearing and the Court heard Mr. Deveau, the manager of a shop known as "Dimonti Jewellers" say that he had been threatened by Maloney. Mr. Short was told that
5 Mr. Deveau said that he was told "*I know where your wife works and where your son goes to school*". Those threats were taken as serious threats by Mr. Deveau who said that he was very frightened by them. On the basis of what he heard, the Magistrate's decision, as we read, it was entirely right.

10 Mr. Morris has, however, pointed out that there was a question and answer handwritten statement made on 25th April, the day previous to the hearing, at approximately 4.15 p.m. by Maloney. However, all that Maloney stated there was information
15 known to him when he instructed Advocate Livingstone. Maloney states in his question and answer statement that he knew Mr. Deveau from seeing him at the "Post Horn"; that he played pool with him and chatted with him. He knew where the manager worked and he knew where the manager's shop was. The question we have to
20 ask ourselves is: why he did not tell these matters, - known to him, and put in writing the afternoon before - to his counsel when he instructed him. We believe that what Mr. Morris is saying is that Maloney did not properly instruct Advocate Livingstone and he would like a 'second go' at the bail application.

25 In any event - and this is what has caused us some anxious moments - we are now fully satisfied that even if Mr. Livingstone had been properly instructed we are convinced that the Magistrate - on the basis of the threats that were made - would have reached
30 the same decision as he made in the matter that was before him on 26th April and we decline on that basis to remit the matter to him.

No Authorities.