

ROYAL COURT  
(Samedi Division)

169.

24th September, 1996

Before: F.C. Hamon, Esq., Deputy Bailiff, and  
Jurats Le Ruez and de Veulle

---

The Attorney General

- v -

Andrew Shayne Le Feuvre

---

Sentencing by the Superior Number of the Royal Court, to which the accused was remanded on 23rd August, 1996, following a guilty plea to:

1 count of indecent assault.

Age: 25 (24 at time of offence).

Details of offence:

The parties were unknown to each other. Both were present at a large public function at a local hotel. The accused enticed the child away from her companions with the promise of a free toy and led her to a secluded part of the hotel premises. He procured the removal of her pants and placed his naked penis against her bottom. He manually rubbed her vagina. There is no evidence of full digital penetration of the vagina, but there was superficial damage to the inner aspect of the labia, caused by his finger.

Details of Mitigation:

Intoxicated by a mixture of prescribed antidepressant tablets taken with alcohol. History of depression. Spontaneous expressions of deep remorse. Early admissions and plea of guilty throughout.

Previous Convictions:

18 months earlier accused had been convicted of making a long series of indecent telephone calls, some of them to prepubescent girls.

Conclusions: 2 years and 6 months' imprisonment.

Sentence and Observations of the Court: 2 years and 3 months' imprisonment; Court draws particular attention to the need for deterrence in such cases.

---

C. E. Whelan, Esq., Crown Advocate.  
Advocate J.C. Martin for the accused.

---

JUDGMENT

5 THE DEPUTY BAILIFF: On 17th March, 1996, a function to celebrate Mother's Day was held at the "Royal Hotel", St. Helier. Many groups of unrelated people were there. It was, until these events occurred, a happy occasion and at no time is the hotel management to be criticised.

10 The accused came out of a toilet and saw a group of children playing. He approached the group and asked if anyone would like a free teddy bear. He took the child named on the indictment, who was 6 years old and who obviously trusted him, upstairs in the lift to a secluded place and assaulted her. The accused at the time was 24.

15 A porter at the hotel may have interrupted the activity without realising what was going on and the accused made a rapid departure from the hotel.

20 The parents of the little girl eventually found out what had happened; there was widespread police activity and within a week Le Feuvre was arrested.

25 The assaults were these: having tricked the child into going with him, he persuaded the child to remove her knickers, spat in his hand, took his penis in his hand and held it briefly against the child's bottom. There is no evidence that the penis was erect, or that any attempt was made to penetrate the child with it. There was manual rubbing of the vagina. There was apparently no full vaginal penetration and the child's hymen was intact and undamaged. A medical examination revealed an erythema on the inner aspect of the child's labia, around the outside of the hymen. That was described to us as a reddened and tender area. The doctor was of the opinion that this could have been caused by a finger; there was a small bloodstain inside the child's knickers. The erythema had stopped bleeding at the time of the medical examination. Those are the facts of the assault.

35 We have to weigh matters today in a fine balance. To any right thinking member of the public the incident was horrible. To take a trusting little child and abuse her in this way can only be described as revolting. But although the offences were revolting there are matters that we need to examine dispassionately. Le Feuvre admitted the offences at an early stage and that has saved the child further trauma. But he was apprehended only after a week of what we shall describe as "dedicated police activity". He has, in his expressions of remorse, made spontaneous statements and revolting though the offences were the features of the assault were not at the extreme end of the scale.

We understand and of course only time can tell that there appears to those who have examined the child that she has apparently not suffered any long-term psychological damage.

5

What can be said of the accused? This was, it appears, an isolated incident. That does not help the child or those close to the child. But he does not appear - from those who have questioned him in great detail - to have tendencies to paedophilia. He has indeed refused - from the reports that we have seen - the opportunity of an assessment by the Faithfull Foundation.

10

Miss Martin has argued strongly on a line of English cases where the Court of Appeal has reduced sentences - we will not set them out - they run from Thorne in 1984 (Whelan: "Aspects of Sentencing in the Superior Courts of Jersey": p.97) to the cases in 1989. We find comparisons difficult because there is in England statute law which sets the maximum term of imprisonment. However, in the case of Samm (1995) 16 Cr.App.R.(S) 124 the Court said this:

15

20

*"We do not propose to suggest that there is or can be, for offences of this sort, any sort of numerical tariff. The range of offences of this type of indecent assault varies so much in nature and circumstances that it is impossible to carry out a mathematical comparison between one case and another, though we have been helped by looking at a broad range of cases to which [counsel] has drawn our attention".*

25

30

We have done a very similar exercise in Court today and our reading of the Jersey cases leads us to the conclusion that Crown Advocate Whelan is right that the general *de facto* band is somewhere between eighteen months and three years' imprisonment.

35

Miss Martin spoke at some length to us about the distinction between this case and the case of someone who is either a parent or in a position of trust. She also says that her client can remember very little of the incident. That may be so, but while there is no explanation for it we find it disturbing that Le Feuvre was able to take this little girl in a lift to an upper floor of the hotel, along a corridor to what was described as an isolated place above a secluded back staircase. He was also - despite his intoxicated state - able to introduce the possibility of a free teddy bear as the trap to lure this innocent child away from her companions. Miss Martin says that Le Feuvre has no recollection of being disturbed by the hotel porter, but if that is so his rapid leaving of the scene shortly afterwards is remarkable.

40

45

50

There are also disturbing features in regard to the element of abduction by a total stranger, the bringing into play of his penis and the slight damage caused to the child's vagina.

5 Miss Martin rightly and at the very start of her address said that there were no exceptional circumstances to warrant a non-custodial sentence. What she argued in her address was for a lower sentence than that suggested by the Crown. The sentence as we see it is not only to punish; we must in a small island protect  
10 innocent children from others who might be tempted to act in this way and we must say that we intend to take that element into account today.

15 We believe that Le Feuvre is deriving benefit from his dedicated medical treatment in prison. We say that in passing because it has not affected our decision. But it must be of use to him for Miss Martin has told us that he intends to leave the island when eventually released.

20 In the circumstances I have to say that the Jurats are not agreed. One Jurat would remain with the conclusions; one would reduce them very slightly and therefore I shall lean in favour of the slightly reduced sentence. Stand up, please, Le Feuvre. You are sentenced to two years and three months' imprisonment.

### Authorities

Marsh (1988) 9 Cr.App.R.(S) 467.

Current Sentencing Practice:

Part B4-6.3A: Indecent Assault on Young Child:

Release 22: 8-iv-22:

03: R. -v- Vinson (1981) 3 Cr.App.R.(S) 315: p.22703.

06: R. -v- Kempster (1986) 8 Cr.App.R.(S) 74: p.22704.

07: R. -v- Smith (1986) 8 Cr.App.R.(S) 325: p.22704.

09: R. -v- Helliwell (1987) 9 Cr.App.R.(S) 357: p.22705.

10: R. -v- Hessey (1987) 9 Cr.App.R.(S) 268: p.22706.

12: R. -v- Gibbons (1987) 9 Cr.App.R.(S) 391: p.22707.

19: R. -v- Garnett (1989) 11 Cr.App.R.(S) 327: p.22711.

24: R. -v- Robinson (1990) 12 Cr.App.R.(S) 542: p.22713.

R.27: February 1994:

31: R. -v- Moghal (1992) 14 Cr.App.R.(S) 126: p.22717.

Thomas: "Principles of Sentencing" (2nd Ed'n): pp.128-130.

Renouf (1988) 10 Cr.App.R.(S) 157.

Samm (1995) 16 Cr.App.R.(S) 124.

W. Alan: "Aspects of Sentencing in the Superior Courts of Jersey"  
pp.97-101.

Turner (1990) 12 Cr.App.R.(S) 570.

A.G. -v- Smitton (29th July, 1993) Jersey Unreported.

A.G. -v- McCormick (2nd June, 1995) Jersey Unreported.