JERSEY / JUDGMENT

1998/169 - AG v Biard [1998] UR 169 (7 August 1998)

[1998] UR 169

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[1998] UR 169 [New search] [Contents list] [Help] ROYAL COURT (Samedi Division) 7 August 1998 Before: FC Hamon Esq Deputy Bailiff and Jurats Potter and Le Brocq AG -v- Daniel Maurice Alexandre Biard 1 count of: fishing in territorial waters contrary to Article 9(1) of the Sea Fisheries (Jersey) Law 1994. Plea: Guilty Age: Details of Offence: On 21 st May, 1998, Fisheries Officers recovered two marker buoys and one string of 39 recently baited whelk pots which were within the Island's exclusive three mile limit by between 350 yards and as much as 650 yards. Fisheries Officers affixed notices to two other marker buoys making a line of pots also within the exclusive three mile limit advising the owner that the other line of pots had been seized. Biard, the owner of the vessel "Pax Labor", a 26 ft. aluminium hulled vessel crewed by two men and skipper, contacted the Department. He attended Jersey voluntarily, identified the pots as belonging to him and during the course of the question and answer interview accepted responsibility for the gear being set within the limit but stated that he was not on the vessel at the time and that the pots had been laid by his skipper, Roger Le Cardinel. Details of Mitigation: Guilty plea. Effectively wrote his own indictment. Attended Jersey voluntarily to identify the pots and to appear before the Court. Co-operative, made full admissions. Not aware that his skipper was fishing within the three mile limit. Not in strong financial position (after paying for wages, insurance, upkeep on boat left with maximum net income £250 per week and had other financial commitments notably a mortgage on a bungalow (£150 per month)). Deprived of use of pots since 21 st May, 1998 (pots valued at £500). Previous Convictions: None. Conclusions: £1,500 fine, with £500 costs (inclusive of interpreter's fees) or 1 month imprisonment in default of payment. Sentence & Observations of Court: £1,000 fine with £250 costs, or 1 month imprisonment in default of payment. 12 months' to pay. Payment of £500 will secure return of fishing gear. Matthews Esq Crown Advocate Advocate J D Martin for the Accused JUDGMENTS THE DEPUTY BAILIFF: It is important for fishermen, who are not permitted to fish within the exclusive three mile limit, to realise how important that limit

is to Jersey fishermen, particularly those who are trying to establish a new whelk fishing industry. The law is one of strict liability, but we believe that the skipper, Monsieur Biard, must have known when he laid his pots that he was well within the three mile exclusive limit. We have to say that Monsieur Biard has co-operated, and he has been deprived of his pots since the 21 st May. To a certain extent he wrote his own indictment by his co-operation, and he was not skippering the boat when the pots were set. He seemed genuinely perplexed by his predicament because he telephoned the Fisheries Department to ascertain if they knew where his pots were. We have looked, with Miss Martin, into Monsieur Biard's financial commitments. He tells us that when he has paid his crew, purchased his bait, and paid his other overheads, including insurance, he has only something in the region of £250 a week with which to maintain his wife in a mortgaged bungalow. We do not feel, in the circumstances, that this is a case where we can impose a fine, as we are perfectly entitled to do "pour encourager les autres", but the message from this Court is clear. Monsieur Biard knew of the fines imposed on the last fisherman to appear before this Court, Monsieur Groult, and I have to say that this Court may be infinitely more severe in future cases, but in the circumstances of this case, apart from the other mitigating factors, we have to note that Monsieur Biard has been fishing for 30 years without any convictions against him. We therefore reduce the fine to £1,000, and the costs of the prosecution are reduced to £250, which will include the interpreter's fee. A payment of £500 will secure the return of the tackle, and we are going to trust Monsieur Biard to pay the balance of the fine within twelve months, or one month's imprisonment in default of payment. Authorities Sea Fisheries (Jersey) Law 1994: Articles: 9, 18, 20. A. G. -v- Groult (27 th February, 1998) Jersey Unreported. [1998.042] BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII URL: https://www.bailii.org/je/cases/UR/1998/169.html

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Prepared on 30 October 2026 · Esheria