

JERSEY / JUDGMENT

AG -v- Bailey [2009] JRC 077 (17 April 2009)

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JUDGMENT

THE commissioner: 1. The defendant has pleaded guilty to driving carelessly without a driving licence and without insurance. He has also pleaded guilty to receiving stolen goods worth £1,133 for which he paid £50. 2. He has 17 previous convictions comprising 27 offences, 16 of which are larceny or theft related offences and which include 5 convictions for receiving stolen goods, 4 of which were committed in 2007. The defendant also has a previous conviction in 2006 for driving without a licence or insurance. The defendant is unwilling to undertake unpaid community work, although at today's hearing it was indicated that he had changed his mind in this respect but the probation department have told us that on the last occasion they had some difficulty in his compliance with both probation and the community service orders. 3. On 22 nd June, 2007 the Royal Court, in imposing a probation order, gave the defendant what it described as a last chance, which he abused. The defendant no longer has the benefit of youth and is assessed at a medium risk of re-offending. 4. The Crown have moved for a consecutive sentence in relation to the driving without insurance because it submits that such a sentence should contain a deterrent element bearing in mind the importance of insurance to innocent third parties. That importance is underlined by the fact that Article 2(2) of the Motor Traffic (Third Party Insurance)(Jersey) Law 1948 permits a fine of £2000 and/or imprisonment not exceeding 18 months for such an offence. The Court endorses that approach. 5. In terms of mitigation the defendant has pleaded guilty and we have considered his letter and the other letters handed to us. We note and applaud the talent he has discovered for art which he is pursuing and which we encourage him to continue. However the defendant has an appalling record and has clearly failed to learn in any way from the sentences previously imposed. There is clearly no alternative but to impose a custodial sentence. Under the Magistrate Court guidelines a deliberate second offence of driving without insurance attracts a sentence from a fine of £1,000 up to imprisonment of 2 months. The Crown have sought a sentence of 12 months for this offence and in so doing have not had regard to such guidelines. In our view driving without insurance is a serious matter but we feel that we are able to reduce the conclusions in this respect. 6. In relation to the receiving, we have regard to the factor set out in the case of R-v-Webb

(2002) 1 Cr App R (S) 22 and to Whelan on Aspects of Sentencing and the authorities referred to us and conclude that the sentence sought by the Crown is on the high side. 7. We therefore sentence the defendant as follows: on count 1; £200 fine or 1 month's imprisonment in default, on count 2; 4 months' imprisonment and disqualification from driving for 2 years,

on count 3; £400 fine or 2 months' imprisonment in default, each of those counts to be concurrent. On count 4; 15 months' imprisonment, on count 5; 15 months' imprisonment and on count 1 on the Second Indictment; 15 months' imprisonment, counts 4, 5 and count 1 on the Second Indictment to be concurrent with each other but consecutive to counts 1 to 3 on the First Indictment. You will thus serve a total of 19 months' imprisonment and be disqualified from driving for 2 years. Authorities Criminal Justice (Young offenders)(Jersey) Law 1994. Motor Traffic (Third Party Insurance)(Jersey) Law 1948. R-v-Webb

(2002) 1 Cr App R (S) 22 . Whelan on Aspects of Sentencing in the Superior Court of Jersey. Wylie-v-AG 2002/13. Page Last Updated: 28 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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