

JERSEY / JUDGMENT

Baglin -v- AG 14-Jul-2006 [2006] JCA 097 (14 July 2006)

[2006] JCA 097

COURT
COURT OF APPEAL

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COURT OF APPEAL

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July, 2006

Before

:

The Hon Michael Beloff, Q. C., President;

Sir John Nutting, Bt., Q. C. and;

J. W. McNeill,, Esq., Q. C.

Philip William Baglin

-v-

The Attorney General

Application for an extension of time in

which to appeal and Application for leave to appeal by Philip William Baglin

against the sentence passed by the Superior Number of the Royal Court on 17

th

March, 2005 on a guilty

plea to:

1 count:

Uttering and attempting to obtain drugs
on a forged document.

Application for an extension of time and
application for leave to appeal refused by the Deputy Bailiff sitting as a
single judge of the Court of Appeal on 12

th

April, 2006.

N. M. Santos Costa, Esq., Crown Advocate.

P. W. Baglin on his own behalf.

JUDGMENT

Beloff JA: 1. This is an application by Philip William Baglin who on the 26 th November, 2004, was convicted on a plea of guilty in relation to an offence of forgery for which he was sentenced by the Royal Court for 4 months, that sentence to run concurrently with a sentence of 7 years for a grave and criminal assault. 2. On 11 th February, 2006, Mr Baglin gave notice of an application for leave to appeal against the sentence in relation to the forgery count. On that form he indicated that he intended to act for himself and not be represented by an advocate and his grounds of application were in the following form: "I was told that I wasn't going to get a custodial on this and don't wish this crime to appear on my record as a prison sentence". 3. In relation to the first of those grounds, it appears to the Court that there would be no purpose to be served by granting leave to appeal, since the sentence as I have already indicated was to run concurrently with a longer sentence and Mr Baglin has frankly accepted that that is not the matter of which he effectively complains. 4. The matter of which he complains and wishes to advance by way of appeal to this Court is that since he was a sick man, as he has apparently been advised as he tells us by English counsel, he was not in fact guilty of the offence of forgery on the basis, as we would understand the advice that he may have received, but his mind, if it were, did not go with the act. 5. There is no basis in the papers or elsewhere for suggesting that Mr Baglin's state of mind was such that he could not be guilty of an offence of forgery. The papers before us in relation both to the Social Enquiry Report, the arguments advanced by his counsel below, and the judgment of the Court, all appear to clarify that he was conscious of what it was he was doing and in the language of the Social Enquiry Report borrowing apparently, a phrase that you used 'took a calculated risk'. 6. We can assure Mr Baglin that neither in the law of England and Wales, or Scotland or of Jersey, can it be said that the mere fact that one is a sick person means that one cannot be guilty of forging a prescription in order to obtain certain drugs. That is a matter that could go to mitigation, but certainly cannot go to the ingredients of the offence. 7. In those circumstances, it appears to us, that there is no basis upon which leave could sensibly be granted by this Court and there is no purpose to be served in adjourning the matter so that Mr Baglin has the benefit or advantage of professional legal representation since the advice he would receive would necessarily be that there was no basis for the appeal. 8. I add by way of footnote only, that he has already been refused legal aid and has accepted he be in no position to fund legal representation himself. Accordingly, the submissions that he has made on his own behalf before us this afternoon represent the entirety of the case that he could advance and for reasons I have given, it is the judgment of this Court that the case has no merit whatsoever. Application refused.

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