

JERSEY / JUDGMENT

Evans -v- AG 23-Oct-2006 [2006]

JRC 150 (23 October 2006)

[2006] JRC 150

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JUDGMENT

THE COMMISSIONER: 1. This is an appeal from the Magistrate's decision of 12 th September, 2006, to find the appellant guilty on two counts, being drunk and disorderly on 2 nd June, 2006 outside Berkley Court, La Motte Street, and on the same occasion resisting arrest. 2. At the end of the trial he was fined £200 or 2 weeks' imprisonment in respect of Charge 1 and fined £300 or 3 weeks' imprisonment in respect of Charge 2. 3. The general grounds of appeal filed by the appellant were that the policemen giving evidence lied under oath and gave false evidence. 4. Mr Evans pleaded not guilty to the two counts, there was a third unrelated count of speeding to which he pleaded guilty when the charges were put to him on the 16 th August. Apparently he told the Court that he would conduct his own defence on that day. 5. He was granted unconditional bail and a pre-trial review was set for the 6 th September. The pre-trial review duly took place before Relief Magistrate Boxhall. The Court was told that two police officers would give evidence, but in fact evidence was given at trial by four witnesses; WPC Lynn Lang, PC Le Bas, PC McIntosh and PC du Feu. 6. At the pre-trial review the appellant told the Magistrate that there was a defence witness who was clearly a male but the appellant declined to name him and said eventually that he would not in fact be calling him. 7. It was Mr Evan's choice not to give evidence on oath and the only questions that he put to each of the police officers was whether they agreed that their statement was true, and each police officer agreed that the statement was true. 8. The Magistrate summed up the evidence that he heard and defined adequately the two offences with which Mr Evans, who was no stranger to the courts, had been charged. 9. It was during his closing submission that the appellant produced a recording of a number that was apparently in the mobile phone's memory bank. He told us that he had not disclosed it before as he didn't want the police officers who gave evidence to change their evidence. 10. The Magistrate, presumably because Mr Evans was conducting his own defence allowed Mr Evans to put the tape in. The Magistrate heard it through three times. We have taken advice from Crown Advocate Sharp and we have listened to the tape in chambers, and unlike the Magistrate we heard every word that was recorded. 11. It is trite law that we cannot interfere with the decision of the Magistrate unless it is unreasonable or cannot be supported having regard to the evidence. There was no evidence during the course of the trial which countered the evidence of the four police officers. 12. Today the appellant has shown us inconsistencies in the evidence of the police officers when compared

to the tape which lasts only 57 seconds. But, despite that, in producing his findings the Magistrate stated that he was satisfied beyond reasonable doubt that "you did indeed resist arrest within the test, so accordingly I find you guilty on both charges." 13. We believe that Mr Evans has shown us inconsistencies but in our view he had the opportunity to attack the prosecution witnesses at trial. He did not do so, and there is nothing in the Magistrate's summing up that we can criticise. He gave Mr Evans much latitude but we cannot interfere at this stage. 14. Mr Evans took a decision at trial; he did not give evidence, he did not take advice, he chose to cross-examine only on one point and he did not give evidence on his own behalf. Therefore, although we have some sympathy with him we decline to interfere and the appeal is dismissed. I have thought about costs and I believe this is a case where each side must bear its own costs. No Authorities Page
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