

JERSEY / JUDGMENT

# Hall v AG [2002] JRC 82 (22 April 2002)

**[2002] JRC 82**

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## JUDGMENT

THE COMMISSIONER: 1. It is necessary for us to repeat that we cannot reduce a sentence on appeal merely because this Court, on the facts of the case, might have passed a lesser sentence. 2. The Magistrate will have seen the accused, may have dealt with the accused on previous occasions, and has a wealth of knowledge based on similar cases that come before him on a daily basis. Although we have a very wide discretion under the law, it is only when we are satisfied that a sentence is wrong, because the right principles have not been applied, that we will interfere with it. 3. The facts of this case are agreed. It is not a case where a sentence was passed in order to deter others, it was in every sense a punishment in the public interest. The appellant has an appalling record, going back to 1984. The first count, malicious damage, relating to this appeal occurred just after midnight on the 17 th January. The appellant gained entry to flats at Devonshire Place, St Helier, where his mother lives. He attempted to enter his mother's flat. She called the police and whilst they were on the way, he smashed the door of the flat and entered into a scuffle with his mother's partner (count 2: assault). This gentleman was not injured. Two policemen arrived and the appellant refused to be arrested. He verbally abused the officers, and was placed face down on the sofa where he was handcuffed. He continued verbally to abuse the officers and was placed in a cell (count 3: resisting police). The common assault with which he was charged was in the words of Centenier Scaife "very minor". 4. Whilst on remand, Hall breached his conditions of bail. On the 21 st February, he came with another man, to the home of his former woman friend. He had apparently drunk a litre of vodka. He was violently verbally abusive and was again arrested (count 4: drunk and disorderly). When he was brought before the Magistrate bail was refused, and he was remanded in custody pending his trial. 5. Miss Martin, to whom we are very grateful for her arguments, has brought her appeal on four grounds. Firstly, the minor nature of the offence. Mr Yates, for the Crown, submits to us that, despite the comments of the learned Magistrate, this was an assault on a previous complainant for which the appellant had received a prison sentence. 6. All the mitigation possible was presented to the learned Magistrate, and we note the appellant's real remorse, and the enormous amount of work carried out on his behalf by dedicated prison officers. It is true that, on remand, he spent considerable time in solitary confinement. It must be noted that, however we look at the matter, the fact that he was in solitary was entirely of his own making. 7. The totality sentence is perhaps the strongest ground of appeal, and we have considered this aspect in some detail. There were two quite separate and unrelated offences. The Magistrate was entitled to make the sentences

consecutive. We would repeat again that the Magistrate's Guidelines are not set in stone. Whilst the 3 months for the common assault, and the 3 months for resisting police arrest might be regarded as excessive for a first offender, this was not a first offence, and whilst we might not have reached the same decision as the Magistrate, these offences included serious malicious damage and the Magistrate was clearly looking at the matter in the round. He saw the previous record and observed the obvious remorse of the appellant, which is, of course, strong mitigation. We cannot in the circumstances interfere with the Magistrate's decision and the appeal is dismissed. Authorities *Pipon-v-AG* (16 th August,

1999) Jersey Unreported [1999/143]. R-v-Ball (1951) 35 Cr. App. R. 164. Thomas: Current Sentencing Practice: A5-3E - A5-3F. Page Last Updated: 21 Jun 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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