

JERSEY / JUDGMENT

The Attorney General v Colin Noble

COURT

the Royal Court on 31st July, 2015.

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Inferior Number Sentencing – breach of bail conditions imposed by the Royal Court on 31st July, 2015.

[2015]JRC188A

Royal Court

(Samedi)

11 September 2015

Before :

J. A. Clyde-Smith, Esq., Commissioner, and
Jurats Kerley and Grime
The Attorney General

-v-

Colin Noble

Sentencing by the Inferior

Number of the Royal Court on a breach of Bail Conditions imposed on 31st

July, 2015, on the
following charges:

6 counts of:

Grave and criminal assault (Counts 1, 2, 3,
4, 5 and 6).

Age: 46.

Plea: Not guilty.

Ms E. L. Hollywood, Crown Advocate.

Advocate M. J. Haines for the Defendant.

JUDGMENT

THE commissioner: 1. The Court has given anxious consideration to this matter; it is conscious that under the Human Rights Convention and we are quoting here from paragraph 16(63) of Archbold 2015 Edition:- “...A person charged with an offence must be released pending trial unless the state can show that there are “relevant and sufficient” reasons to justify his continued detention. This requires the exercise of a judicial discretion.” Archbold sets out the reasons for refusal into four categories of which, it seems to us, that the second is the relevant one and quoting again:- “(ii) Interference with the course of justice. Bail may be refused where there is a well-founded risk that the accused, if released, would take action to prejudice the administration of justice: Wemhoff-v-Germany, ante. The risk may involve interference with witnesses, warning

other suspects, or the destruction of relevant evidence: Letellier-v-France, ante; Wemhoff-v-Germany, ante. A generalised risk is insufficient; the risk must be identifiable and there must be evidence in support...” 2. In terms of this ground there is not a generalised risk asserted by the Crown here. There is specific evidence of a previous breach of the bail condition, that the defendant should not contact the complainant, as found by the Magistrate on 2nd April, 2015, and the defendant has admitted that he is in breach of the same condition in that he called the complainant twice on 25th August, 2015, causing her, according to her statement, to feel scared and frightened. 3. Remanding the defendant in custody will result in his serving 4 months in custody, equivalent to a 6 month sentence, as Advocate Haines has pointed out, for an offence or offences for which he has pleaded not guilty and may therefore be acquitted. Is it proportionate therefore for the defendant to lose his liberty? After careful consideration, we have concluded that it is proportionate, particularly in a case involving alleged domestic violence where complainants may well be in real fear of the defendant and subject therefore to psychological pressure that such calls may well give rise to. This is a complainant who will have to come to Court to give evidence and, in our view, there is a well-founded risk that the defendant, if he retains his liberty, will prejudice the administration of justice in this case. It is also important that defendants generally appreciate that bail conditions are to be complied with. In this case we have an adult, fully capable defendant, who has been found in breach once already, and has gone on to breach again. We are therefore going to remand the defendant in custody. 4. You are remanded in custody to the 18th January, 2016, at 10am and there will be a Plea and Directions Hearing on 3rd November, 2015, at 9:30am. Authorities Archbold 2015 Edition.

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