

JERSEY / JUDGMENT

The Attorney General v Daniel James Vibert

COURT

Royal Court

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Source record

Inferior Number sentencing – breaking and entering and larceny
– attempted breaking and entering with intent – breach of the peace
– drugs – possession - Class B.

[2012]JRC032A

Royal Court

(Samedi)

10

February 2012

Before :

W. J. Bailhache, Q.C., Deputy Bailiff, and
Jurats Kerley and Nicolle.

The Attorney General

-v-

Daniel James Vibert

Sentencing by the Inferior

Number of the Royal Court,

following guilty pleas to
the following charges:

1 count of:

Receiving, hiding or withholding (Count 1).

1 count of:

Possession of a controlled drug, contrary to
Article 8(1) of the Misuse of Drugs (Jersey)
Law 1978 (Count 2).

1 count of:

Breach of the peace (Count 3).

11 counts of:

Breaking and entering and larceny (Counts 4,
5, 7, 8, 10, 12, 13, 14, 17, 19 and 21).

6 counts of:

Attempted breaking and entering with intent
(Counts 6, 9, 11, 15, 20 and 22).

1 count of:

Breaking and entering with intent (Count
16).

1 count of:

Larceny from an unattended motor vehicle
(Count 18).

1 count of:

Larceny (Count 23).

1 count of:

Illegal entry and larceny (Count 24).

Age: 20.

Plea: Guilty.

Details of Offence:

Vibert was arrested in February 2011 after he had attempted to sell a gold bracelet valued at £1,800 to a King Street jeweller. Subsequent comments that he made in interview indicated that he had the bracelet in his possession within 24 hours of it and numerous other items having been stolen from a detached country residence. He said that he had bought it legitimately and denied any knowledge of it being stolen before being released pending further investigation. Some weeks later he was arrested for being under the influence of illicit substances and was found in possession of a small personal quantity of cannabis resin. He was later seen fighting with another male near a busy funfair on People's Park and was arrested again. In the meantime, extensive forensics in relation to the bracelet had by then revealed sufficient evidence to support a charge of "receiving". Vibert was initially charged with these three unconnected offences and warned to appear before the Magistrate's Court on 17th August, 2011, when pleas were reserved and jurisdiction was declined, as conviction would put him in breach of Royal Court Community Service/Probation/Drug Treatment Orders imposed in December 2010. He was allowed conditional bail pending committal. During August and September 2011 there was a spate of night-time burglaries reported at commercial premises across the Island, approximately twenty-six of them being cafes and beach or harbour kiosks. At around 4:00am on 2nd October, 2011, Vibert was seen in St Aubin by police officers; he was riding a bicycle with an outboard motor slung across the handlebars and was arrested on suspicion that both had been stolen. In interview he initially denied the thefts and continued to do so even after the owners had provided conclusive identification of each item. Forensic evidence confirming Vibert's presence at some of the café/kiosk burglaries was put to him during the October interviews. He denied any involvement. As interviewing progressed however, he conceded that it was difficult to contradict the evidence produced. He eventually capitulated, and made limited admissions. After a period on remand at La Moye Young Offender Centre, Vibert was interviewed again and made further admissions in relation to a number of offences where he was already the main suspect, and also to one offence which had not then been reported.

By the conclusion of that part of the investigation, Vibert had admitted a total of twelve break and entry offences with the theft of cash, cheques and a small quantity of goods (total value in excess of £1,500), six attempted break-ins, an illegal entry of a detached garage from which he stole the outboard motor, the theft of the bicycle and smashing a car window to steal a packet of cigarettes. Vibert claimed that he committed the break-ins to fund an alleged addiction to Subutex (treatments for opioid dependence). He had been subject to a Royal Court Probation Order throughout the offending period and a Community Service Order until the end of May 2011. Nineteen of the offences were committed subsequent to him being granted conditional bail at the Magistrate's Court in relation to the first three offences, two offences having been committed in the days between being formally charged with those three offences and first presentation before the Magistrate. The social enquiry report indicated that he had put little effort into his community service work, doing only the bare minimum acceptable, and that he would have been breached for non-compliance with the Probation and Drug Treatment Orders had he not been charged with these present offences.

Details of Mitigation: Little mitigation available, however he "wrote his own Indictment" in relation to one count and showed some remorse at conclusion of final interview. Indicated guilty pleas to majority of offences at committal hearing; unemployed and no permanent address after being thrown out by girlfriend and subsequently mother.

Previous Convictions: Appalling record of 203 offences at date of sentencing; first recorded offence at age 10 years and 4 months; 152 convictions at 19 hearings before turning 16; first custodial sentence one month later. Since then appeared before Youth, Magistrate's and Royal Courts for sentencing on eight further occasions, virtually all available sentencing options exercised. History of breaching every Binding Over, Probation or Community Service Order imposed.

Conclusions:

Count 1: 18 months' youth detention.

Count 2: 2 weeks' youth detention, concurrent.

Count 3: 2 weeks' youth detention, concurrent.

Count 4: 18 months' youth detention, concurrent.

Count 5: 18 months' youth detention, concurrent.

Count 6: 12 months' youth detention, consecutive to Count 1.

Count 7:	18 months' youth detention, concurrent to Count 6.
Count 8:	18 months' youth detention, concurrent to Count 6.
Count 9:	12 months' youth detention, concurrent to Count 6.
Count 10:	18 months' youth detention, concurrent to Count 6.
Count 11:	12 months' youth detention, concurrent to Count 6.
Count 12:	18 months' youth detention, concurrent to Count 6.
Count 13:	18 months' youth detention, concurrent to Count 6.
Count 14:	18 months' youth detention, concurrent to Count 6.
Count 15:	12 months' youth detention, concurrent to Count 6.
Count 16:	12 months' youth detention, concurrent to Count 6.
Count 17:	18 months' youth detention, concurrent to Count 6.
Count 18:	1 month's youth detention, concurrent to Count 6.
Count 19:	18 months' youth detention, concurrent to Count 6.
Count 20:	12 months' youth detention, concurrent to Count 6.
Count 21:	18 months' youth detention, concurrent to Count 6.
Count 22:	18 months' youth detention, concurrent to Count 6.
Count 23:	6 months' youth detention, concurrent to Count 6.
Count 24:	18 months' youth detention, concurrent to Count 6. Total: 3 years' youth detention. Forfeiture and destruction of drugs sought.

Sentence and
Observations of Court:

Conclusions granted.
C. M. M. Yates, Esq, Crown Advocate.
Advocate C. M. Fogarty for the Defendant.

JUDGMENT

THE DEPUTY BAILIFF: 1. You are here to be sentenced for 18 offences of breaking and entering or attempting to break and enter, for 3 offences of larceny, breach of the peace, possession of cannabis and for receiving a bracelet valued at £1,800. In those breaking and entering offences you have shown a complete disregard for those running small businesses and for their staff. The removal of the tips which had been put by customers for staff is a particularly mean example of that theft. The offending took place on numbers of occasions over a period of 7-8 months. The total value of goods taken or received was something in the order of £3,500 so these are significant offences. There is no doubt at all that a custodial sentence is right in principle. Your offences are aggravated by the fact that many of them were committed while you were on bail for other charges. And just to make sure you understand that - by committing offences when you are on bail you are, in effect, telling the Court that has trusted you by putting you on bail, that you do not care about the Court; and that is why it aggravates the offences which you then commit. Telling the Court that you do not care, that disregard, is also quite clearly shown in the way you have treated the police and the authorities; your language, your threats to cause the officers harm, it is all just completely unacceptable. 2. What we have had to consider, because the Law requires us to do so, is whether the Criminal Justice (Young Offenders)(Jersey) Law 1994 has the result that you should not be given a sentence of youth detention in this case. We have considered it. In our view you have a history of failure to respond to non-custodial penalties, that is quite plain from your appalling record, and also the totality of offending here is so serious that a non-custodial sentence cannot be justified and so on both those grounds we think that the provisions of Article 4 are met and on both those grounds, therefore, we think that the sentence of youth detention is right. I must explain to you that you may be subject on release to a period of supervision on your release in accordance with Article 10. 3. You have had some problems in your life so far. It is important you recognise that there is no-one who is in control of your life except you. During your time in custody I hope that you will ponder that. You can spend your life in and out of prison or you can enjoy the liberties and the freedoms which all of us have, as long as we do not commit serious offences, and that ultimately is your choice. We have considered the totality of the sentence which has been called for and of course considered your youth and the mitigation that has been mentioned in the Crown's papers, but we think that the period of 3 years' youth detention is right. It is going to allow you a substantial period off drugs; it is going to allow you to gain skills from the courses which are offered in the Young Offenders Centre and later in the prison. You can view the sentence negatively or positively. If you view it negatively you will probably condemn yourself to going in and out of prison for the rest of your life. If you view it positively, and you use the courses which are offered, there is hope for the future and you want to think about that. 4. We sentence you in accordance with the Crown's conclusions; the total is 3 years' youth detention. The sentences are in accordance with the schedule which is in the papers

which the Crown has given; 18 months on Count 1, 2 weeks on Count 2, 2 weeks on Count 3, 18 months on Count 4, 18 months on Count 5, those all run concurrently. 12 months on Count 6, 18 months on Counts 7 and 8, 12 months on Count 9, 18 months on Count 10, 12 months on Count 11, 18 months on Counts 12, 13 and 14, 12 months on Counts 15 and 16, 18 months on Count 17, 1 month on Count 18, 18 months on Count 19, 12 months on Count 20, 18 months on Count 21, 18 months on Count 22, 6 months on Count 23 and 18 months on Count 24, and all those sentences in respect of Counts 6 – 24 run concurrently with each other, and consecutively to Counts 1 – 5, making a total of 3 years' youth detention. 5. We order the forfeiture and destruction of the drugs. Authorities Criminal Justice (Young Offenders)(Jersey) Law 1994. Whelan on Aspects of Sentencing in the Superior Court of Jersey. AG-v-Gaffney 1995/101. AG-v-Pietrzyk and Lipski [2011] JRC 200. AG-v-Vibert

[2010] JRC 234.

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