

JERSEY / JUDGMENT

The Attorney General v James Alistair Giles

COURT

ROYAL COURT

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[2008]JRC126

ROYAL COURT

(Samedi Division)

8th August 2008

Before :

M. C. St. J. Birt, Esq., Deputy Bailiff, and
Jurats Bullen and Liddiard.

The Attorney General

-v-

James Alistair Giles

Sentencing by the

Inferior Number of the Royal Court,

following guilty pleas to
the following charges:

1 count of:

Attempted Larceny. (Count 1).

1 count of:

Being drunk and disorderly on licensed
premises, contrary to Article 82 of the Licensing (Jersey)
Law 1974. (Count 2).

1 count of:

Taking and driving away a motor vehicle
without having the consent of the owner or other lawful authority, contrary
to Article 53(1) of the Road Traffic (Jersey)
Law 1956. (Count 3).

1 count of :

Failing to stop and report an accident,
contrary to Article 52 of the Road Traffic (Jersey)
Law 1956. (Count 4).

1 count of :

Dangerous driving, contrary to Article 22(1)
of the Road Traffic (Jersey) Law 1956. (Count 5).

1 count of :

Violently resisting arrest. (Count 6).

1 count of :

Driving whilst disqualified, contrary to
Article 15(4) of the Road Traffic (Jersey)
Law 1956. (Count 7).

1 count of :

Using a motor vehicle uninsured against third party risks, contrary to Article 2(1) of the Motor Traffic (Third Party Insurance)(Jersey) Law 1948.
(Count 8).

1 count of:

Driving a motor vehicle with an alcohol concentration above the prescribed limit, contrary to Article 28(1)(a) of the Road Traffic (Jersey) Law 1956. (Count 9).

Age: 18.

Plea: Guilty.

Details of Offence:

On 30th January, 2008, the defendant went into Spar, Bath Street, and attempted to walk out with four packs of lager without paying for them. A member of the public saw him and alerted staff who approached the defendant as he attempted to leave. At this point, the defendant took out a bottle of Smirnoff Vodka that was concealed in his clothing and placed it back on the shelf saying that he did not really want it (Count 1). The defendant was told he was to wait for the Police at which point he became aggressive and started shouting and swearing at the witness who was trying to stop him from leaving. A scuffle broke out. The defendant began flailing his arms around and he shouted "I'll bite your fucking nose off", before he was subdued by another member of the public (Count 2). On 16th February, 2008, the defendant was involved in a road traffic collision (RTC) outside La Cantina Restaurant, Pierson Road, in the Parish of St. Helier. The defendant drove a green Citroen ZX into the rear of a blue Ford Fiesta pushing it forward into a white Volvo 245. The defendant had been travelling at speed and was unable to stop to avoid the collision with the stationary vehicles. The defendant told one of the drivers that he was going to pull over to get out of the way but instead pulled out and left the scene by driving away. He did not return (Count 4).

Details of the defendant's vehicle were circulated to all Officers.

Police Officers attended the car park at the address of the Citroen's registered keeper where they came across the Citroen vehicle, which the defendant was still driving.

The Officers stopped as they thought the defendant was going to stop too.

As one Officer opened his door to exit his vehicle, the defendant drove forward quickly and hit the open door of the Police vehicle with the corner of its offside bumper. The Police vehicle door was caused to slam forcibly shut. Fortunately the Officer managed to pull

his leg back inside prior to the door shutting.

The defendant then sped past the

Police vehicle, headed for the exit of the car park, and, without stopping to check if it was safe, turned into the road. The defendant sped through the streets of St. Helier and drove through red lights at a junction, narrowly avoiding a collision with another vehicle. The defendant eventually stopped when he smashed through a chain and drove into a car park which was a dead end (Count 5).

The Officers who had followed him stopped their vehicle and sprinted towards the driver's door of the Citroen which was open. As the Officers tried to pull him out of the vehicle, the defendant attempted to kick them. The defendant was eventually pulled out of the car but continued to struggle and was taken to the ground. He continued to resist when the Officers tried to apply handcuffs. The Officers eventually managed to apply the handcuffs and arrested him (Count 6).

The defendant was taken to Police Headquarters where he provided two specimens of breath with the lowest reading being 63 micrograms of alcohol in 100 millilitres of breath (Count 9). It was also established that he had borrowed the Citroen vehicle from a friend and that he had not been given permission to do so (Count 3) and that he had been driving whilst disqualified (Count 7) and uninsured (Count 8).

The motoring offences are aggravated by the fact that they were committed whilst on bail following the attempted larceny. All the offences were committed in breach of a Probation Order.

Details of Mitigation: Youth (17 years' old at the time of offences), guilty pleas, some remorse.

Previous Convictions: 7 previous convictions for 40 offences including 12 motoring offences and 7 larceny related offences.

Conclusions:

Count 1: 3 months' youth detention.

Count 2: 1 month's youth detention, concurrent to Count 1 but consecutive to other Counts.

Count 3: 12 months' youth detention and 3 years' disqualification from driving.

Count 4: 1 month's youth detention.

Count 5: 12 months' youth detention and 3 years' disqualification from driving.

Count 6: 2 months' youth detention.

Count 7: 3 months' youth detention and 3 years' disqualification from driving.

Count 8:	6 months' youth detention and 3 years' disqualification from driving.
Count 9:	2 months' youth detention and 3 years' disqualification from driving. Counts 3 to 9, concurrent to each other but consecutive to Counts 1 and 2. Total: 15 months' youth detention and 3 years' disqualification from driving. No additional penalty for breach of Probation Order. Breach of Magistrate's Court Act no separate penalty.
Sentence and Observations of Court:	
Count 1:	1 month's youth detention.
Count 2:	1 month's youth detention, concurrent to count 1 but consecutive to other counts.
Count 3:	12 months' youth detention and 3 years' disqualification from driving.
Count 4:	1 month's youth detention.
Count 5:	12 months' youth detention and 3 years' disqualification from driving.
Count 6:	2 months' youth detention.
Count 7:	3 months' youth detention and 3 years' disqualification from driving.
Count 8:	6 months' youth detention and 3 years' disqualification from driving.
Count 9:	2 months' youth detention and 3 years' disqualification from driving. Counts 3 to 9 concurrent to each other but consecutive to counts 1 and 2. Additional consecutive penalty for breach of Probation of 2 months' youth detention. Total: 15 months' youth detention and 3 years' disqualification from driving. C. M. M. Yates Esq., Crown Advocate. Advocate J. M. Grace for the Defendant.

JUDGMENT

THE DEPUTY BAILIFF: 1. In relation to Counts 1 and 2 you attempted to steal lager from a Spar shop and then became aggressive when a bystander tried to intervene. The more serious offences are Counts 3 to 9 which you committed when you were on bail to the Youth Court. Whilst you were not far short of double the drink driving limit you took a car belonging to a friend. You had a minor accident which you left without reporting, then, when the police caught up with you, in an effort to avoid capture, you accelerated away and in doing so, struck the door of the police car and it was extremely fortunate that the police officer managed to take evasive action, because you could have injured him very seriously by such reckless action. You then proceeded to drive off at speed and a chase followed. You drove through a red light, very narrowly missing another car which had young children in it, and it was only through the quick reactions of the driver of that car that an accident was avoided. Eventually you were caught but even then, you struggled so much that the police had to use force in order to subdue you and arrest you. So all in all, you drove in a thoroughly dangerous manner when you were intoxicated and it is very fortunate that no-one was injured. The Court takes an extremely serious view of driving like this which puts innocent members of the public at risk and we do agree that a serious sentence is required to reflect such reckless conduct. 2. You have a poor record, including previous driving offences and offences of dishonesty. The current offences put you in breach of a Probation Order and, before that, you had breached previous Probation Orders and Community Service Orders. Advocate Grace has put forward in mitigation your background, your guilty plea and your youth, and we fully accept that and we have read about it carefully. She has pointed out the efforts you have made whilst on remand to take advantage of the educational courses in prison and we are pleased to note that and we certainly encourage you to continue, because it will stand you in better stead when you come out from youth detention. 3. We are quite satisfied there is no alternative to youth detention in this case on two grounds. First of all you have shown yourself unwilling or unable to respond to non-custodial sentences and secondly, particularly having regard to the dangerous driving, these offences are too serious to be dealt with by way of a non-custodial sentence. 4. We had considered increasing the total, as we indicated to your counsel, in order to reflect the fact that you were in breach of probation. We have been persuaded by what your Advocate has said that this would not be right, not least because we would not like to prevent you being able to start at Highlands Collage in January. We think that would be a positive way forward for you so we do not wish to impose a sentence which could prevent that happening. We also agree with your counsel that 3 months is too long for the attempted shoplifting, but we disagree with the Crown that it is acceptable not to impose a penalty for the offences for which you were on probation. So we are going to adjust the conclusions but the total will remain one of 15 months which we think is the right total sentence. 5. On Count 1; 1 month's youth detention, on Count 2; 1 month's youth detention, Count 3; 12 months' youth detention and 3 years' disqualification, Count 4; 1 month's youth detention, Count 5; 12 months' youth detention and 3 years' disqualification, Count 6; 2 months' youth detention, Count 7; 3 months' youth detention and 3 years' disqualification, Count 8; 6 months' youth detention with 3 years' disqualification, Count 9; 2 months' youth detention

with 3 years' disqualification. For all the offences for which you were on probation which can carry a prison sentence, we impose a sentence of 2 months' youth detention. Counts 1 and 2 will be concurrent, Counts 3 to 9 will be concurrent with each other but consecutive to Counts 1 and 2 and the probation offences will be concurrent with each other but consecutive to the others, so that makes a total of 15 months. 6. The total sentence in your case is one of 15 months' youth detention. I must warn you, you may be under supervision when you are released and we hope that you take advantage of that. We also impose a disqualification order for a total of 3 years. Authorities Criminal Justice (Young Offenders)(Jersey) Law 1994. AG -v- Wheadon [2008] JRC 042. AG -v- Aubin [2007] JRC 241. AG -v- McShane [2005] JRC 127. C. E. Whelan – Aspects of Sentencing in the Superior Courts of Jersey.

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