

JERSEY / JUDGMENT

The Attorney General v Laurence Munks

COURT

ROYAL COURT

BEFORE

M.C. St. J. Birt, Deputy Bailiff; and Jurats

Bullen and Le Breton.

The Attorney General

-v-

Laurence Munks

2 counts of:

possession of a controlled drug, contrary to
Article 6(1) of the Misuse of Drugs (Jersey)
Law, 1978

Count 1: nitrazepam

Count 2: diazepam

2 counts of:

larceny (count 3, 4);

1 count of:

dangerous driving, contrary to Article 14 of
the Road Traffic (Jersey) Law, 1956

(count 5);

1 count of:

careless driving, contrary to Article 14 of
the Road Traffic (Jersey) Law, 1956

(count 6);

1 count of:

receiving, hiding or withholding stolen
property (count 7B).

Breach of 120 Community Service Order made on

1st May, 2003 in Magistrate's Court, following conviction of

possession of controlled drugs (x 1); supplying controlled drugs (x 1); larceny
(x 1); resisting police (x 1).

Age: 23.

Plea: Guilty. Breach of Community Service Order
admitted.

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ROYAL COURT

(Samedi Division)

12th December, 2003.

Before:

M.C. St. J. Birt, Deputy Bailiff; and Jurats
Bullen and Le Breton.
The Attorney General
-v-
Laurence Munks
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Article 6(1) of the Misuse of Drugs (Jersey)
Law, 1978
Count 1: nitrazepam
Count 2: diazepam
2 counts of:
larceny (count 3, 4);
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dangerous driving, contrary to Article 14 of
the Road Traffic (Jersey) Law, 1956
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1st May, 2003 in Magistrate's Court, following conviction of
possession of controlled drugs (x 1); supplying controlled drugs (x 1); larceny
(x 1); resisting police (x 1).
Age: 23.
Plea: Guilty. Breach of Community Service Order
admitted.

Details of Offence:

Counts 1 and 2: On 9th May, 2003, Police Officers
approached Munks whilst he was sitting in his car. Munks started to walk away,
fumbling in
his trouser pocket as he did so.
One of the Officers stopped him and conducted a search of his person,
during which two blister packets of tablets were recovered (one containing 15
Nitrazepam 5 mg tablets and the other containing 4 Diazepam tablets).
Count 3: On 26th June, 2003, an employee at the
Co-op in St Peter saw Munks leave that store with a trolley of electrical items
for which he had not paid. The
employee followed him outside and challenged him. It was subsequently discovered
that he
had stolen three items, together valued at £229.97.
Count 4: On 3rd July, 2003, a member of the
public observed Munks leaving the Co-op in St Brelade and driving off with a
selection of items still in the shopping basket and not in plastic
carriers. Police Officers
subsequently identified Munks from in-store CCTV footage. The value of the items
stolen was not

ascertained.

Count 5: On 11th July, 2003, two Police Officers in an unmarked vehicle were overtaken by Munk's blue Ford Fiesta whilst driving east along Victoria Avenue. The Fiesta was travelling at such an excessive speed that the Officers followed and noted that they themselves reached a speed of 80 miles per hour. During this period, the Fiesta was straddling the white line on the road. The Officers also saw it drive through a red light. However, Munks has maintained that the light was amber at the relevant time. In order to avoid the need for a Newton, the Crown agreed to accept that the light may have been changing from amber to red at the relevant time.

Count 6: On 21st July, 2003, a witness living at the Cedars in St Helier heard a noise from the car park outside. He observed the driver of a blue Ford examining damage to both the car he was driving and to another parked in the car park. The witness observed the male drive away without attempting to make contact with the owner of the damaged vehicle. The owner of the damaged vehicle later confirmed that no-one had made any approaches to her in relation to the damage which comprised scratches and dents to the front left wing and a cracked headlight cluster and bumper.

Count 7B: On 7th August, 2003, a break-in occurred at Stampers in St Martin. A granite boulder was used to smash the door and gain access to the supermarket. 290 packets of cigarettes were stolen. Later that day the caretaker of Beaulieu School observed a male person hide a carrier bag containing 67 packets of cigarettes (valued at approximately £250) in the grounds of the school. The male was subsequently identified as Munks from a photograph taken by the caretaker.

Details of Mitigation: Guilty pleas, residual youth.

Previous Convictions: Nine previous convictions comprising 39 offences (including 19 for theft and kindred offences and 7 drug related offences).

Conclusions:

Count 1: 1 month's imprisonment.

Count 2: 1 month's imprisonment, concurrent.

Count 3: 4 months' imprisonment, consecutive.

Count 4: 4 months' imprisonment, concurrent with sentence passed on count 3.

Count 5: £1,000 fine or 1 month's imprisonment, concurrent

Count 6: £100 fine or 1 week's imprisonment, concurrent, in default of payment.

Count 7B: 4 months' imprisonment, consecutive.

Breach of Community Service Order: 6 months' imprisonment, consecutive.
Total: 15 months' imprisonment.

Sentence and Observations of Court:

Count 1: 1 month's imprisonment.

Count 2: 1 month's imprisonment, concurrent.

Count 3: 5 months' imprisonment, consecutive.

Count 4: 5 months' imprisonment, concurrent with sentence passed on count 3.

Count 5: 1 month's imprisonment, concurrent; 12 months' disqualification from driving.

Count 6: £100 fine or 1 week's imprisonment, in default of payment.

Count 7B: 3 months' imprisonment, consecutive.
Breach of Community Service Order: 6 months' imprisonment, consecutive.
Total: 15 months' imprisonment; 12 months' disqualification from driving; £100 fine or 1 week's imprisonment in default of payment.
S. M. Baker, Esq., Crown Advocate.
Advocate D. Hopwood for the accused.

JUDGMENT

THE DEPUTY BAILIFF: 1. You have a poor record for one so young. You have a history of shoplifting, no doubt usually to feed your drug habit, although we accept what your advocate says, that on this particular occasion these two offences were not committed for that purpose. 2. Now you are before us again for two more shoplifting offences as well as receiving and being in possession of Class C drugs and driving offences. As recently as May of this year you were given a further chance by the Magistrate's Court because you were placed on community service for other offences; but you did not take advantage of that. You re-offended and you only carried out 10 hours of work. 3. We do, however, take note of your guilty plea. We accept that you are remorseful and in particular we note what your advocate has said about your desire to try and change things. We hope that you mean it. It is clear that there is good in you. You can be a good employee; we have seen the references and those for whom you have worked think highly of you. It is very sad that you ruin that potential by your repeated offending. In our judgment, given the history of offending and the recent breach of community service, there is no alternative to a

custodial sentence. 4. The important thing we must look at is the total sentence to be passed. Looking at that we think the Crown's conclusions are correct. We think a total of 15 months' imprisonment, bearing in mind the breach of the community, service is right. We do, however, make certain minor variations. In particular we think that although Mr Hopwood submitted that 4 months was too much for the two larceny offences, we on the contrary think that those two offences are more serious than the single offence of receiving bearing in mind the number of previous shoplifting offences you have committed and the fact that there were two of them. 5. We note the references to the five cases to which Mr Hopwood referred us but really one can derive no assistance whatsoever from cases where the sentence related to a large number of offences some of which were more serious than others. 6. The sentence is as follows: count 1, 1 month's imprisonment. Count 2, 1 month's imprisonment, concurrent. Count 3, 5 months' imprisonment consecutive. Count 4, 5 months' imprisonment concurrent, with count 3. Count 5, dangerous driving, we agree with the Crown's amended conclusions that a £1000 fine is not right as you cannot pay that, and a 1 month sentence of imprisonment, concurrent is what we impose, together with disqualification from driving for 12 months. Count 6 careless driving, £100 fine or 1 week's imprisonment in default of payment, concurrent. Count 7B, 3 months' imprisonment, consecutive. That comes to the same total of 9 months and then for the offences for which you were placed on community service, we note that the Magistrate's Court suggested that it had 6 months in mind. We note that you carried out 10 hours, but in our judgment there is no deduction to be made. You have not done enough to deserve that so we impose a sentence of 6 months' imprisonment, consecutive, concurrently on all the offences for which you were dealt with by the Magistrate's Court. Therefore the total is, as we say, is 15 months' imprisonment and 12 month's disqualification. Authorities AG -v- Corvel (2nd March 2001) Jersey Unreported; [2001/55]. Whelan: Aspects of Sentencing in the Superior Courts of Jersey (2nd Ed'n): paras 240-414. A.G. -v- Mallon & Ors (2nd August, 1996); Jersey Unreported; [1996/143]. A.G. -v- Munks (16th June, 2000); Jersey Unreported; [2000/105]. A.G. -v- Sandland [2003] JRC111. A.G. -v- Gardner (22nd November, 2002) Jersey Unreported; [2002/223]. A.G. - Matson (6th July, 2001) Jersey Unreported; [2001/143]. A.G. -v- da Silva (9th March, 2001) Jersey Unreported; [2001/60]. A.G. -v- Durkin (7th August, 1998) Jersey Unreported [1998/171].

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