

JERSEY / JUDGMENT

The Attorney General v N

COURT

Royal Court

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Inferior Number Sentencing - Motoring - Breach of Orders.**[2020]JRC265****Royal Court****(Samedi)****21 December 2020**

Before :

T. J. Le Cocq, Esq., Bailiff, and Jurats

Crill and Ronge.

The Attorney General

-v-

N

Sentencing by the Inferior

Number of the Royal Court, following a guilty plea to the following charges:

1 count of:

Driving a vehicle dangerously, contrary to

Article 22(1) of the Road Traffic (Jersey) Law 1956 (Count 1).

1count of:

Using a Motor Vehicle Without Third-Party

Insurance, contrary to Article 2(1) of the Motor Traffic (Third Party

Insurance) (Jersey) Law 1948. (Count 2).

1 count of:

Failure to comply with the conditions

subject to which a provisional licence is granted, contrary to Article 11(2)

of the Road Traffic (Jersey) Law 1956 (Count 3).

1 count of:

Failure to notify the Department of Vehicle

Registration of the change of ownership of a motor vehicle, contrary to

Article 11(2) of the Motor Vehicle Registration (Jersey) Law, 1993

(Count 4).

Age: 17.

Plea: Guilty.

Details of Offence:	At approximately 2:23 on the morning of Sunday 6th September 2020, two police officers saw the Defendant's car parked on Green Street in St Helier. PC Barta got out of the marked police car and approached the car, which had three occupants. PC Barta heard the Defendant start his engine, and so opened the front passenger door of the Seat and shouted "Police, stop". The Defendant began to drive the Seat away, pulling PC Barta in its direction. He was concerned for his safety and screamed for the vehicle to stop. The Defendant continued to drive away and PC Barta lost hold of the door handle. The officers followed the car with their blue lights activated and sirens sounding. They pursued the Defendant westbound through the tunnel and onto Albert Pier. The Defendant turned the Seat around and exited Albert Pier. As he did so he drove on the right-hand side of a traffic island on the wrong side of the road. The Defendant then negotiated the underpass roundabout and turned onto Victoria Avenue. The officers recorded that, approaching Victoria Avenue, they drove at 60-mph through the 30-mph zone in order to keep up with the Defendant. On Victoria Avenue they reached speeds of 70-mph in pursuit of the Defendant. As the Defendant drove along Victoria Avenue, he weaved from lane to lane which prevented the Police from driving alongside him. Approaching St Aubin, the Defendant overtook another vehicle that was waiting at temporary traffic lights by some roadworks. The Defendant drove through St Aubin, which has a 20-mph limit. The officers noted that the Defendant was driving faster than was safe. They continued up Mont Les Vaux, down Mont Sohier and towards St Brelade's Bay. As the Defendant drove down Mont Sohier, he overtook another vehicle travelling in the same direction. At this point the pursuit was ended by Police due to possible danger to other road users. At the time of these offences, he had been on probation for approximately seven months. The probation order, along with a total of 180 hours' community service, was imposed by the Youth Court on 14th February, 2020 for three offences of breaking and entering dwelling houses and possession of herbal cannabis. The motoring offences put him in breach of these non-custodial sentences.
Details of Mitigation:	Guilty plea, youth, remorse, support of family.
Previous Convictions:	One conviction for four offences – breaking and entering and possession of herbal cannabis. Sentence imposed by Youth Court on 14th February 2020, current offences put the Defendant in breach of those non-custodial sentences.

Conclusions:

Count 1:	120 hours' Community Service Order, equivalent to 6 months' youth detention, and a 12 month' Probation Order. 2 years' disqualification from driving with a requirement to retake a test at conclusion of the disqualification period.
Count 2:	70 hours' Community Service Order, equivalent to 2 months' youth detention, and a 12 month' Probation Order, 3 months' disqualification from driving, concurrent.
Count 3:	A fine in the sum of £200 sought.
Count 4:	A fine in the sum of £200 sought. Total: 120 hours' Community Service Order, equivalent to 6 months' youth detention, and a 12 month' Probation Order; £400 fine. 2 years' disqualification from driving with a requirement to retake test at conclusion of disqualification period. Previous offences: Probation Order to be discharged. Community Service Order to continue, with the sentence for the motoring offences to be served consecutively. Taken together with the remaining hours from the Youth Court sentence, the Defendant would have a total of 205 hours of community service to complete. (Imposed by Youth Court 14th February 2020 – 85 hours left) No order for costs sought.
Sentence and Observations of Court:	Conclusions granted. Ms L. B. Hallam, Crown Advocate. Advocate J. A. Dix for the Defendant...

JUDGMENT

THE BAILIFF: 1. Stand up please. You are to be sentenced today for four motoring offences, three of them on 6th September where you drove without insurance in breach of the terms of your provisional licence and in a dangerous manner 2. That offending put you in breach of a Probation Order and a Community Service Order imposed by the Youth Court on 14th February for three offences of breaking and entering and one of possession of herbal cannabis. 3. We do not need to go into the detail of the facts of the current offending as these have been set out thoroughly by the Crown and we have of course seen the CCTV footage. 4. Suffice to say, that you were driving a car that you recently purchased. You knew that you were uninsured and drove off to avoid arrest when a police officer sought to talk to you. This was very dangerous driving indeed and you put an officer's life in danger as well as potentially endangering members of the public. 5. The offending from which you were on probation involved breaking and entering occupied dwellings at night and some relatively minor theft. 6. In our view the custodial threshold has been passed in

this case, but we must now turn of course to consider the threshold under the Criminal Justice Young Offenders (Jersey) Law 1994 and the test under Article 4(2) in so far as it is irrelevant to our deliberations, it says: “(2) A court shall not pass a sentence of youth detention unless:

- (b) ...it considers that no other method of dealing with the person appropriate because it appears to the court that –
 - (i) the person has a history of failure to respond to non-custodial penalties and is unable or unwilling to respond to them.” 7. You are in breach of a Probation Order so there is, in our view, a basis in law for saying that you have failed to respond to a non-custodial measure and we are entitled to consider youth detention as one of the options before us. 8. However, we note your youth and your guilty plea. We have read your letter of remorse which we accept is a genuine letter and we have read with care the references provided for you which point to us to a greater maturity than the offending before us suggests. It is clear, and we view this as important, that you have a supportive family around you who will try to help you not to re-offend. 9. All these things considered we think the court can offer you one further opportunity to put your life on track and to stay out of prison. Accordingly, we propose to adopt the conclusions of the Crown and you are sentenced as follows: (i) Count 1, 120 hours community service this is the equivalent of 6 months’ youth detention coupled with a 12 month’ Probation Order. 2 years’ disqualification from driving and there is a requirement that you have to take a test, although of course that would be the case in any event. (ii) Count 2, 70 hours community service equivalent to 2 months’ youth detention and a 12 month’ Probation Order and 3 months’ disqualification from driving, all concurrent. (iii) Count 3, a fine in the sum of £200 ordered. (iv) Count 4, a fine in the sum of £200 ordered. With regard to those fines, 4 weeks’ youth detention in default of payment. We will allow you 30 days to make a payment of those fines.
 - (v) We discharge the previous Probation Order but we order the Community Service Order that you were subject to for the earlier offences to continue and to be served consecutively which means that there is a total of 120 hours community service and a 12 month’ Probation Order; £400 fine and 2 years’ disqualification for the current offending and taken with the time remaining for you to complete community service for the earlier offending that makes a total of 205 hours community service to be completed. The driving ban will be from the date of today.
10. I want you to listen to me very carefully. If a police officer had been injured, and that police officer would easily have been injured very badly by reason of your stupidity, you would be looking at a sentence of youth detention now. You would be looking at being taken out of this dock into custody and taken to prison. Do you understand me?
11. You are at a crossroads, it seems to us, and you have choices to make, mature grown up choices. You will not, very probably, be offered another chance. You should take this as being your last chance to get it right. You are showing a worrying sign of disregard for the law and disregard for the life and interests of your fellow citizens. You may even be at the

top of a slippery slope and we really do not want to see that happen. You are young, you can build a satisfying worthwhile and productive life with the help of those who care about you, with the help of your family. Do you understand me?

12. We do not expect to see you here again or indeed before the Youth Court. If we do, then the Court may feel you have simply run out of chances so please take these words to heart, take them very, very seriously and do not let your family down. Authorities Criminal Justice Young Offenders (Jersey) Law 1994.
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