

JERSEY / JUDGMENT

The Attorney General v Robert Kevin Passman

COURT

Royal Court

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[2011]JRC162

Royal Court

(Samedi)

19

August 2011

Before :

M. C. St. J. Birt, Esq., Bailiff, and Jurats
Morgan and Crill.
The Attorney General
-v-
Robert Kevin Passman
Sentencing by the Inferior
Number of the Royal Court,

following guilty pleas to
the following charges:

First Indictment

1 count of:

Taking and driving away a motor vehicle
without having the consent of the owner or other lawful authority, contrary
to Article 28(1) of the Road Traffic (Jersey) Law 1956 (Count 2).

1 count of:

Dangerous driving, contrary to Article 14 of
the Road Traffic (Jersey) Law 1956 (Count
3).

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 4).

1 count of:

Driving without a licence, contrary to
Article 4(1) of the Road Traffic (Jersey)
Law 1956 (Count 5).

Second Indictment

1 count of:

Threatening and abusive conduct, contrary to
Article 2 of the Crime (Disorderly Conduct and Harassment)(Jersey) Law 2008 (Count
1).

Age: 21.

Plea: Guilty.

Details of Offence:

Some three weeks before the incident, the defendant had formed a relationship with one of the witnesses. But the pair had been experiencing difficulties in the relationship. On Saturday 22nd April, 2011, the witness attempted to end the relationship and the defendant subsequently informed her by telephone that he had taken approximately 200 different mixed tablets and had drunk £50 worth of alcohol. The witness and her friend subsequently met the defendant and went for a drive in the witness's car. The witness drove them to Grainville School car park, the defendant sitting in the back seat and her friend in the front passenger seat. When the girls told the defendant they had to go the defendant became aggressive and refused to get out of the car. The defendant then ripped open an empty beer can that he was holding and cut his arm approximately ten times with the resulting piece of sharp metal. He laughed as he did this and made threatening remarks for the friend to leave the car, which she did. The defendant told the witness to drive the car. She drove a short distance then stopped and asked what would happen if she did not. When she turned to face the defendant she saw he was holding the jagged piece of metal in his left hand. She got out of the car and ran towards her friend. The defendant drove off in her car without her permission. A short time later the defendant telephoned the friend on her mobile phone and stated words to the effect of "Let's see how fast this car can go, 40, 50, 60, 70, 80, don't think the police can catch me now. I will kill the two of you before they get me." The defendant maintains that he actually said he would kill himself before they got him rather than meaning he would kill the girls. The defendant was witnessed driving at excessive speed through St Helier and on to the coast road in St Clement before finally crashing near La Rocque. One witness saw the car flip and lift off the ground before hitting a granite wall, bouncing back into the road whilst travelling backwards and crashing into a pillar of a garden wall. Later inspection showed that the speedometer reading had frozen at "60 mph" at the time of impact. The defendant rang the friend's telephone again and stated "I just had a massive crash on coast road, I think I killed two people." When police arrived at the crash scene they smelt intoxicants on the defendant's breath. At this point he was calm,

but when paramedics tried to remove a cigarette and can of lager from the defendant he became aggressive and abusive. He attempted to open another can of lager and punched the smashed front windscreen. A police officer attempted to restrain

him but he repeatedly knocked the officer's hands away, threw the broken rear view mirror at him and started to bite his open cuts to his left wrist and forearm. He also stated words to

the effect of "Look me up on the system do you

know how many police it takes to restrain me, twelve! I'll fucking kill you. I will, you know I will."

Further unsuccessful attempts were

made to restrain him before he picked up a broken can and started "sawing" his left wrist.

The police officers had no option but to spray the defendant with CS gas in order to subdue him and prevent him from causing any further injury to himself. The defendant continued to

be aggressive for approximately 20 seconds before volunteering his arms to be handcuffed, apologising for his actions and stating that he did not have a licence or insurance.

In interview he claimed that he had

been trying to kill himself by taking large quantities of tablets in the days leading up to the incident, and over the last year. An analysis was carried out on a sample

of blood taken from the defendant which showed that the amount of alcohol in his blood was within the statutory limit and there were no drugs or pharmaceuticals detected that were of significance.

Two properties were damaged by the

crash and further damage was caused to nearby vehicles from flying debris. The repairs to the property and vehicles

have been estimated in excess of £15,000.

The aggravating features were that:

1. The defendant drove through St Helier early on Saturday evening when a number of

pedestrians were present.

2. He reached speeds of at least 60

mph and continued to make threats to the witness and her friend whilst doing so.

3. The defendant only stopped the

vehicle when he crashed into two properties causing considerable damage and writing off the witness's car.

Details of Mitigation:

Guilty pleas, residual youth,

modicum of remorse and troubled childhood and difficult issues to confront.

Previous Convictions:

Five convictions for twenty three

offences. He has appeared in the Royal Court on two

occasions – his most recent convictions - in 2007 for grave and criminal assault and resisting arrest and in 2009 for malicious damage, grave and criminal assault and common assault.

Conclusions:

First Indictment

Count 2:	3 months' imprisonment.
Count 3:	12 months' imprisonment, concurrent and 3 years' disqualification from driving.
Count 4:	9 months' imprisonment, concurrent, and 3 years' disqualification from driving.
Count 5:	£250 fine or 2 weeks' imprisonment, concurrent, in default. Second Indictment
Count 1:	6 weeks' imprisonment, concurrent to the First Indictment. Total: 12 months' imprisonment and 3 years' disqualification from driving, together with a fine of £250.
Sentence and Observations of Court:	The Learned Bailiff noted that the experience must have been very frightening for the two girls involved and that others were put at risk: it was fortunate that no-one was seriously injured. He also noted that the defendant thoroughly deserved imprisonment and that the Crown had moved for the right sentence. However, the Court decided to take a chance with a non-custodial sentence and hoped that the defendant would repay the trust shown to him and make the most of the opportunity. First Indictment
Count 2:	90 hours' Community Service Order together with a 2 year Probation Order.
Count 3:	180 hours' Community Service Order, concurrent, and 3 years' disqualification from driving.
Count 4:	150 hours' Community Service Order, concurrent, and 3 years' disqualification from driving.
Count 5:	£100 fine or 2 weeks' imprisonment in default, concurrent. Second Indictment
Count 1:	60 hours' Community Service Order, concurrent to the First Indictment. Total: 180 hours' Community Service Order, together with a 2 year Probation Order, £100 fine and 3 years' disqualification from driving. 2 months given in which to pay fine. C. M. M. Yates, Esq., Crown Advocate. Advocate S. A. Pearmain for the Defendant.

JUDGMENT

THE BAILIFF: 1. This must have been a frightening incident for these two girls and I hope that you are ashamed of what you put them through. In addition your reckless driving that evening put other road users at risk and it is really very fortunate that you did not kill or injure someone. It was a very bad piece of dangerous driving. You have a poor record as we have heard and you thoroughly deserve the prison sentence for which the Crown has moved and it is the right length of sentence in every respect. 2. But what your Advocate has said, supported by the reports, is that this is a final opportunity for you; that you have had a very troubled childhood, which we fully accept, and you have some difficult issues to confront. What is said in the reports is that you would benefit from assistance in trying to confront these problems and you have not had an opportunity since 2005 when you were placed on probation but you were of course very much younger at that time. In addition we take into account that you have already been in prison for the equivalent of a 6 month sentence, so you have already been punished. 3. The Court has found this a very difficult decision. As we have already said, you deserve to go to prison. But the Court has decided, after careful thought, to take a chance and we hope that you are going to repay the trust which the Court has shown in you and the opportunity which you have been given. 4. So we are going to take the recommendation of the Probation Service. We are going to impose a Probation Order for 2 years but you must also be punished and we are going to give you the full community service, not making any deductions for the time you have spent on remand. So you will serve a total community service of 180 hours. I am now going to break them down, but they are all concurrent. On Count 2; 90 hours, on Count 3; 180 hours, on Count 4; 150 hours and on the Second Indictment; 60 hours, all of those to be concurrent. In relation to the driving without a licence, we are going to impose a fine, hopefully you will find employment, and we fine you £100 which is less than the Crown asked for, or 2 weeks imprisonment in default. It should not be out of your reach if you can find employment and we give you 2 months in which to pay that. You are also going to be disqualified from driving for 3 years. 5. Now I want to make certain things clear to you Mr Passman. This is a very considerable opportunity and you are fortunate that the Court is taking this stance but if you do not do the community service, or if you do not turn up to the Probation Service and do exactly what they tell you and play a full part in all the courses that they want you to do and generally do as they say, or if you re-offend, if any of those things happen you will be brought back here and I think you can guess what will happen if you are brought back here. There will then really be no alternative but to prison. So we hope very much that you will take advantage of this opportunity. That is the sentence of the Court. Authorities AG-v-Wheadon

[2008] JRC 042. AG-v-Picot [2008] JRC 158.

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