

JERSEY / JUDGMENT

The Attorney General v Sean Bernard Downey

COURT

Royal Court

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Superior Number Sentencing - Attempted robbery

[2022]JRC006

Royal Court

(Samedi)

5 January 2022

Before :

R. J. MacRae, Esq., Deputy Bailiff, and
Jurats Ramsden, Averty and Hughes.

The Attorney General

-v-

Sean Bernard Downey

Sentencing by the

Superior Number of the Royal Court, to which the accused was remanded by the
Inferior Number on 19th November, 2021, following a guilty plea to

the following charges:

1 count of:

Attempted robbery (Count 2).

Age: 20.

Plea: Guilty.

Details of Offence:

On 21st July 2021, the

Defendant left his address wearing latex gloves, and intending to carry out a
robbery. He also had with him aglass bottle, which he broke en-route in order to use
it as a weapon.

At approximately 9am, he entered

Stott and Willgrass Jewellers, where the victim was

working alone. The Defendant

approached the victim, holding a broken bottle in his hand and shouted, "Get
the watches out, open the cabinet!" The victim was terrified and thought

that the Defendant was going to stab him in the neck.

The victim distracted the Defendant

and pressed the panic button, then called for help. A passer-by heard the shouting,
and saw

the Defendant through the glass door.

She asked the hairdressers next door to call the police. She then returned to the jewellers where she spoke to the victim and described him as shocked. By this time the Defendant had left the shop.

Internal CCTV from Stott & Willgrass Jewellers recorded the incident which lasted no

longer than 90 seconds. The

Defendant left the premises without stealing anything and no one was injured.

Between 9:25am and 9.32am, the

police received a telephone call from the Defendant who said he wished to be anonymous and spoke in the third person.

He gave details of the offence, the route taken after the offence and where the police could find the remnants of the bottle and the clothes worn during the offence.

The Defendant was arrested and interviewed the same day. After

initially answering no comment, the Defendant confirmed the 626 number was his, but said a friend had made the call.

The Defendant stated that he woke up that morning and planned to rob somewhere. He told officers he took the bottle from his home intending to use it as a weapon. He said he ran away when he heard

someone call the police. He said he intended to rob the jewellers and use the broken bottle to threaten the shop owner.

Details of Mitigation:

Guilty plea. 20 years old therefore a young offender.

Previous Convictions:

Convictions for twenty-three offences, which include one offence for grave and criminal assault and one offence for possession of an offensive weapon offence (convicted March 2018), and seven theft and kindred offences including two robbery offences for which he was convicted in February 2019.

Conclusions:

Count 2:

3 years' Youth Detention.

**Sentence and
Observations of Court:**

Conclusions
granted.
Ms L. B. Hallam, Crown Advocate.
Advocate A. E. Binnie for the Defendant.

JUDGMENT

THE DEPUTY BAILIFF: 1. Sean Downey you are just 20 years old and have, notwithstanding your youth, amassed a significant criminal record. These include offences of grave and criminal assault, many offences of dishonesty and most significantly two offences of robbery, resulting in your conviction in February 2019 when you were sentenced to two years youth detention by this Court, for robbery at knifepoint of two teenagers in the street, an offence committed when you were 17 years old. On that occasion, the Court held that the offence you committed was so serious that a non-custodial sentence could not be justified, notwithstanding your age. 2. Today you fall to be sentenced for another serious offence, namely attempted robbery. The offence was committed on 21st July 2021, when you were living in a supported residence for young people in St Helier. The offence was planned, as you describe to the probation officer in the report. The day before the offence was committed you made a conscious decision to rob someone or somewhere in order to be sent back to prison. In furtherance of your plan, you asked a member of staff at the accommodation where you were living for some latex gloves, and you took a mask and a glass bottle from your accommodation too. You planned to wear the gloves and mask whilst the robbery took place and to break the glass bottle and use it as a weapon or to intimidate the victim or victims of your offence. In fact you did not use the mask, but you did use the gloves and on your way into town, you broke the bottle en-route and although you had not targeted the shop in advance you entered Stott and Wilgrass at about 9am. You rushed towards Mr Wilgrass, the jeweller, holding a broken bottle in your hand shouting “get the watches out, open the cabinet”. Mr Wilgrass saw that the broken bottle was being held by you from a distance of 1 metre with the broken neck being held towards him. He was terrified the bottle would end up in his neck so he tried to distract you by looking towards the door and saying “who’s that”. This brief distraction allowed him to push the panic button. Notwithstanding your knowledge that he had pushed the panic button you repeated your demand for the watches and gave Mr Wilgrass a bag to put them in. Mr Wilgrass shouted “help” at passers by. One of them heard, approached the shop door to assist and you directed the broken bottle towards her through the closed door. When she moved away you left the shop and ran off towards your accommodation. 3. At about 9:25am you made a call from a mobile telephone attributable to you, saying that you had just witnessed a robbery and gave your description to the police. You were arrested at 10am at home and after being cautioned you said “I’ve done something stupid”. When you were interviewed by the police you made full admissions to the offence. You said you decided to leave the shop when you heard somebody call the police. 4. You pleaded guilty at the first opportunity and you receive full credit for so doing and for being so co-operative with the police. You have no regrets, according to the probation officer, for what you did and little concern for the victim of your offence; you told the probation officer “I’m not fussed how this looks”. We have read that you had a difficult start in life. You have been, in addition, taking controlled drugs since you were 12 and since 2017 regularly abusing both drugs and alcohol. You have made numerous attempts to take your own life and been diagnosed with various disorders which we have read about in the pre-sentence report and the report prepared by Dr Bisht, a forensic psychiatrist. Most of your offending has

been financially driven as you need money for drugs. 5. At the time of the offence you were prescribed anti-depressants, an anti-psychotic drug and sleeping tablets. You have had assistance over the years from CAMHS, from a consultant psychiatrist and the hospital. At the end of March 2021 you agreed a safety plan with your support worker and the Community Mental Health Team. Unfortunately that was unable to prevent this offending. It is recognised that trauma experienced in childhood such as yours interferes with normal physical, psychological, social and moral development. Dr Bisht says that you are suffering from a personality disorder which has been complicated by your use of psychoactive drugs. Your mental disorder is not of a nature or degree to warrant detention in hospital, but Dr Bisht says you should be offered psychological support in order to tackle your dependence on psychoactive drugs and help you develop coping strategies. He also recommends Dialectical Behaviour Therapy for your personality disorder. Now both of these may and in our view should be made available to you in prison, and we hope that they are and that you will obtain this support to enable you to function better on your release. Dr Bisht says that your personality disorder and poor impulse control are significant contributory factors in your offending. You told Dr Bisht that you would like to get a job, stop offending, qualify to become a psychologist so you could help other people, particularly children, who have had the difficult start in life that you undoubtedly had. You are still a young man and there is no reason why you should not achieve some or all of these things once you are released. Do you understand? 6. However, as you know and as accepted by your counsel this offence is so serious that only a custodial sentence can be justified. We direct ourselves in accordance with Article 4 of the Criminal Justice (Young Offenders)(Jersey) Law 2014. This provides that: “(2) A court shall not pass a sentence of youth detention unless – ... (iii) the offence or the totality of the offending is otherwise so serious that a non-custodial sentence cannot be justified.” 7. A non-custodial sentence cannot be justified in this case. An offence of robbery involving a weapon will result in a custodial sentence of some length in every case. We give you full credit for your plea, your cooperation and all the matters advanced on your behalf by Advocate Binnie. If you were an adult offender, you would be sentenced to a significantly longer term, but we grant the Crown’s Conclusions and sentence you to 3 years youth custody. You will be supervised when you are released. Authorities Criminal Justice (Young Offenders)(Jersey) Law 2014. Gill v AG 1999/160. AG v Whiteley 1998/126. AG v Rousseau [2011] JRC 195. AG v Hunt [2014] JRC 125. AG v Cox [2019] JRC 172. AG v A [2019] JRC 015.

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