85/30

10th April, 1985

H M Attorney General -v- Andrew Raymond Langford

BAILIFF: The Court is unanimous in refusing leave to appeal against sentence; the Court finds no merit in the application; having said that, Mr Binnington, you have made all the points that could have been made in support of the application but the Court finds no merit in the grounds put forward which you have put forward very well. The Court ... this Appeal Court believes that the Inferior Number fully took into account the mitigating factors, that is to say, the provocation - that was not legal provocation but the Court accepted, as the prosecution had, that there had been taunts over a period of a few weeks and accepted, for the purpose of sentencing, that on the first visit to the public house on that evening, there may well have been a taunt from the victim, that the Appeal Court is satisfied that the Inferior number took into account that circumstance because if there had not been a measure of provocation over the previous weeks and on that occasion, then a sentence of eighteen months for what was clearly a deliberate attack with a knife on a person in a public house would have been far too little; so the eighteen months in itself shows that the Court took into account the special factors which existed. The attack took place after the applicant had twice been told to leave the premises. It took place with a knife which, on the second visit, had been taken from the applicant, had been bent and therefore the applicant must have unbent the knife in order to, on the third occasion, attack the victim; his remarks showed that he intended to attack the victim and intended to inflict a serious injury and, indeed, he is fortunate that more serious injury was not inflicted by a knife which was perfectly capable of inflicting serious injury. We have looked again at the case of Morris which you have very properly cited to us; we noticed that in the case of Morris, although we don't have all the facts, we do notice that Morris reacted to ... not only to verbal taunts but to a physical assault which, of course, was not the case here, and therefore we have every reason to think that that was a case where there was what is called legal provocation - that is to say, there was immediate reaction to an assault, which a very different matter. We also have taken into account, as the Inferior Number did, the embarrassment and aggravation which your client experienced in

prison, that that was put to the Inferior Number and the Inferior Number clearly had that in its mind and, therefore, that is not a new point, but as the report of the presiding judge shows, even taking all the mitigating factors into account and making full allowance for provocation in the sense that the Court accepted that the applicant might well have been taunted by the victim, nevertheless the sentence of eighteen months was the minimum custodial sentence that this Court thought appropriate; we entirely agree that eighteen months is the minimum custodial sentence that could be appropriate for this, what can only be called, a revenge attack with a knife in a public house. It is the minimum sentence that could possibly be appropriate and therefore the application is refused.

ADVOCATE: (indistinct)

BAILIFF: Yes, indeed, such an order is made.