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ROYAL COURT

19th November, 1990

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Before: The Bailiff, and
Jurats Bonn and Hamon

Attorney General

- v -

Anthony Paul Lelliot

Police Court Appeal

Appeal against sentence of six
months' imprisonment imposed for
one charge of committing a grave
and criminal assault.

S.C.K. Pallot for the Crown.

Advocate M.E. Whittaker for the appellants.

JUDGMENT

BAILIFF: The procedural defects were not such as in our opinion to invalidate the trial. Having said that, the main difficulty we face was that the learned Magistrate did not have before him a background report which having regard to the age of the accused and the circumstances of the case would have been preferable before sentencing him. We are not saying any more than that, we are not saying that there should always be a Probation Report. Those matters have been canvassed in this Court and have been ruled on before. Certain

circumstances may require an immediate sentence without the necessity for a report. But in this particular case we think that a report should be prepared. We are going, therefore, to send the matter back to the Police Court with an order for a report to be prepared for the Court below and we perhaps think it might be better if in fact the sentence were considered by the Assistant Magistrate or Relief Magistrate as the case may be.

Having said that I want you to understand, Lelliot, that this Court does not approve of people being kicked on the ground and we are sending you back to the Magistrate's Court for the reasons your counsel advanced. What the Court will decide when they have got the report we cannot say but we do not want the message to go out from this Court that people who kick persons on the ground can escape imprisonment. They should normally go to prison unless there are other circumstances, their age or other facts which would tell against prison. Prison is a well merited offence for kicking a person on the ground. Legal aid costs. Bail £100.

Authorities cited:

A.G. -v- A.P. Lelliott (29th November, 1989) Jersey Unreported.

Principles of Sentencing by Thomas (2nd Ed'n):

- pp. 200-202 The effect of a gap in the offender's record.
- pp. 220-222 Grievances arising in the course of proceedings.
- pp. 275-282 Imprisonment - Statutory restrictions
(i.e. young adult offenders).