

ROYAL COURT  
(Samedi Division)

7.

15th January, 1996

Before: The Deputy Bailiff and Jurats  
Bonn and Potter

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Police Court Appeal (The Relief Magistrate)

The Attorney General

-v-

Paul Henriette

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Appeal against a total sentence of 3 months' imprisonment, imposed on 27th September, 1995, following guilty pleas to:

- 1 count of assault, on which count a sentence of 3 months' imprisonment was imposed;
- 1 count of possessing an offensive weapon, on which count, a sentence of 1 week's imprisonment, concurrent was imposed; and
- 1 count of causing malicious damage on which count a sentence of 1 month's imprisonment, concurrent, was imposed.

Appeal allowed; sentence quashed; 12 month's probation order substituted

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Advocate J.D. Melia for the appellant  
J.G.P. Wheeler, Esq., Crown Advocate

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JUDGMENT

**THE DEPUTY BAIIFF:** The appellant has an appalling record and on 17th December, 1994, he came again to the attention of the Police.

5           On that day, officers found Henriette at a property in St. Brelade in a highly excitable and volatile state. He was apparently standing by the first floor window yelling and shouting obscenities at the top of his voice and, in the presence of the officers, he smashed the window at which he was standing

10           and then proceeded to inflict injuries upon himself with the broken glass. Although the situation was contained by the police officers, he was holding a small bladed knife and threatened the life of any officer who attempted to enter the house and from time to time he would leave the window area and smash property

15           inside the house.

That situation was eventually brought under control but the damage was considerable within the property.

5 Again on 29th July, 1995, the appellant, suspecting that his wife of ten weeks had been unfaithful to him, assaulted her, after which she drove to the police station to report the assault. She has since withdrawn her complaint but those two offences came together before the Relief Magistrate. We might point out that the first offence was also caused by a liaison  
10 that had gone wrong.

In the early hours of the morning of 29th July, after the assault, Henriette was seen brandishing a large carving knife which was removed from him thanks to the skill and courage of a  
15 Police Inspector.

He first appeared before the Relief Magistrate and as a result of the initial address that was made to him, the Relief Magistrate ordered that probation, psychiatric and psychological reports should be prepared. Now, we have studied those in great  
20 detail and they show that Henriette has a severe behavioural problem although we must point out that the psychiatric report of Dr. Gwyn Evans says that he shows no sign of any recognisable psychiatric illness although he remains of a psychopathic  
25 temperament. However, there is no evidence that any psychiatric treatment is of value in his condition.

Miss Melia, in a very careful and strongly argued address to us this morning has, criticised the learned Relief Magistrate but we cannot say that the Relief Magistrate erred because he clearly  
30 decided, and this was the basis of his decision, that the assault on Henriette's then wife and the record could only, in his view, lead to a sentence of imprisonment.

35 We have been greatly helped by both Counsel and we have given a considerable amount of time and anxious consideration to this matter.

While we cannot say that the Relief Magistrate was wrong, we  
40 can say that we feel that in this case an individualised sentence might have been more appropriate, particularly in the light of the fact that Henriette has caused no problems whilst on bail for 5½ months. He is now in steady employment and is a patient of Dr. Berry. We cannot really agree with the Relief Magistrate  
45 when he said in part of his statement in the Police Court -

*"...because there has been a series of assaults stretching back almost to eternity, drunken episodes and the man is a danger to the public and I would say he is just the man to  
50 be contained in a secure mental hospital until everybody was quite happy about his mental condition".*

We feel in the particular circumstances of this case that an individualised sentence might have been more appropriate and  
55 therefore we are, with some hesitation, going to alter the

sentence imposed by the Relief Magistrate to one of twelve months' probation.

No Authorities