

Judgment 1/2004

**Christopher Thomas Bullock – Royal Court
– 26 February, 2004**

Criminal Appeal from the Magistrate’s Court – conviction for wilful obstruction of police officer in the due execution of her duty.

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 26th day of February, 2004 before Alan Robin Winston Hancox, Esquire, E.G.H., C.B.E., Lieutenant Bailiff; sitting alone.

In the action of THE LAW OFFICERS OF THE CROWN against CHRISTOPHER THOMAS BULLOCK (“the Appellant”) to pursue the Appeal of which the said Bullock gave notice against the conviction imposed upon him by the Magistrate’s Court on the 20th November, 2002, in the terms attached hereto;

WHEREAS on the 19th day of February, 2004 THE COURT, heard Advocates A.M. Merrien and G.D. McKerrell, Counsel for the Appellant and Crown respectively and ADJOURNED the matter to Thursday, 26th February, 2004 at 10.30 a.m. for delivery of the Judgment;

THE COURT this day delivered Judgment in the attached terms and DISMISSED the Appeal.

S.M.SIMMONDS
Her Majesty’s Deputy Greffier

IN THE ROYAL COURT OF GUERNSEY

FULL COURT

Between:

CHRISTOPHER THOMAS BULLOCK

Appellant

and

LAW OFFICERS OF THE CROWN

Respondent

Judgment

1. The facts giving rise to this appeal are that around 12.15 p.m. on 1st April, 2002, two police officers, W.P –c Sylvester and W.P –c Palmer were on mobile patrol and had stationed themselves at the side of the Rue de Manoir for the purpose of conducting road checks and to monitor the speed of vehicles proceeding along that road. They were in uniform and were equipped with a radar speed meter. As this was a central factor in the submissions of Advocate Merrien on behalf of the Appellant I should state that it is perfectly clear on the evidence that both officers cannot physically operate the speed meter at the same time. The procedure adopted was described by W.P –c Palmer in answer to the prosecuting officer as follows:

“One person would operate the radar gun and another Officer would be there to corroborate the evidence and to stop where necessary.”

2. I assume the reference to ‘stop where necessary’ means that the corroborating officer would in an appropriate case signal an offending vehicle to stop if the radar gun recorded that that vehicle was exceeding the relevant speed limit.

3. Although Ground 2 of the Grounds of Appeal filed on behalf of the Appellant refers to inconsistencies in the evidence of the two police officers, these did not feature prominently in Mr. Merrien’s argument. The facts as presented by the prosecution were that at about 12.30 p.m the officers observed a blue sports car, number 57777, drive past them on some three occasions. It was being driven by the Appellant and his girl friend, Chantelle Cochrane, was in the front passenger seat. On the last of these occasions the vehicle came from La Route de la Palloterie on the left of the police officers and then turned left into Les Reines on the opposite side of the road to where the officers were stationed.

4. It appears from Mr. Bullock’s evidence that the reason for passing and re-passing on this stretch of Rue de Manoir was that he was looking for the house of his friend, Mr. Adam Le Pelley who was at that time staying at his parents’ house and was the second witness for the Defence. Shortly after the vehicle came back into the Rue de Manoir, turned to its right and then turned right again into a private driveway. After a further interval the Officers became aware of two men standing on the opposite side of the road, one of whom was the Appellant, and the other man appeared to be pointing a camera towards them.

5. The evidence for the Defence, in summary, was that the Appellant accompanied by Chantelle had gone to Adam Le Pelley’s parents’ house in the Forest, which they had some

difficulty in finding, for the purpose of photographing two cars recently purchased with Mr. Bullock's digital camera for his www.cars website. They had a cup of tea in the house, after which Mr. Bullock and Mr. Le Pelley went back to the road on foot with the object, apparently, of speaking to the officers in connexion with some petition about the speeding problems of a group of people who have a common interest in performance cars and are colloquially known as 'Kevs'.

6. On the way out of the house Mr. Bullock was engaged in instructing Mr. Le Pelley in the workings of the digital camera, one feature of which is that the photographer does not necessarily look at the intended subject but at an image on the in-built preview screen, which enables the operator to prepare to take the picture he wants. Apparently their intention was to take photographs first and then approach the officers regarding the petition. It was accepted by the defence that the camera was pointing in the Officers' direction, though not actually at them.

7. Neither officer mentioned the matter of the petition in her evidence. However they took exception to being photographed whilst carrying out their official duties. In answer to Mr. Merrien W.P –c Palmer said:

“.....its not an everyday occurrence to see someone in the middle of the road trying to take photographs while we're carrying out duties.”

Both Officers agreed that the Appellant asked them what they were doing there. He was told that they were carrying out speed checks, at which the Appellant moved forward and stood very close to W.P –c Sylvester, invading her personal space, as she put it, adopted a hostile attitude and accused them of jumping out at cars. At or around this point W.P –c Palmer left to answer her mobile phone in the patrol car, some twenty yards from where they were standing. This short absence of W.P –c Palmer from the immediate vicinity laid the foundation for the main plank of Mr. Merrien's submission on this appeal.

8. For his part the Appellant, largely corroborated by Mr. Le Pelley, said that he was just trying to be polite and that it was the Officers who were irate and aggressive. The mention of a hair in or on his teeth seemed to cause great offence to the Appellant. Further words were exchanged, and at one stage, according to W.P –c Sylvester's notebook, the Appellant became abusive. The net effect of the Defence evidence was that the Appellant and Mr. Le Pelley had behaved reasonably throughout and that the provocation and aggression had come from the Officers.

9. The Magistrate rejected the Defence version of the events of 1st April. Having administered a careful direction as regards the burden of proof he found that Mr. Bullock had acted in the manner described by the Officers. I agree with Crown Advocate McKerrell that there was ample evidence before the Magistrate upon which he could so find. It is, in my judgment, clear from the prosecution evidence that the Appellant was asked to leave and did not do so, whereupon he was physically arrested and placed in the rear of the police car where Chantelle saw him when she came out to the road shortly afterwards. The offence for which the Appellant was initially arrested was conduct likely to cause a breach of the peace. On arrival at the Police Station he was 'de-arrested' for that offence and re-arrested for the offence of wilfully obstructing a police officer in the due execution of her duty contrary to Section 1 (2) of The Offences against Police Officers Law, 1963, as amended in 1991 and 1996.

10. The charge initially averred that both Officers were acting in the execution of their duty and that both were obstructed, but it was amended towards the end of the Judgment so as to delete the name of the second Officer. I will return to this aspect later. It was common ground between Counsel on the appeal that the leading case is Rice v. Connolly

[1966] 2 Q.B 414. That was a case stated by the Recorder of Grimsby where the appellant had been seen acting in a suspicious manner by police officers in an area where there had been several breakings. He refused to answer questions as to his identity and address, or to accompany the police to the police box. He was arrested and charged with obstruction. His appeal was allowed on the principal ground that he had a lawful excuse for refusing to answer the questions put to him.

11. However, the following statement of the law by Lord Parker, L.C.J in Rice v. Connolly as to a police officer's duties has been cited frequently in the subsequent authorities referred to in this appeal. He said at page 419;

“It is also in my judgment clear that it is part of the obligations and duties of a police constable to take all steps which appear to him necessary for keeping the peace, or for preventing crime or for protecting property from criminal injury. There is no exhaustive definition of the powers and obligations of the police, but they are at least those, and they would further include the duty to detect crime and bring an offender to justice.”

There can in my opinion be no doubt that the words ‘for preventing crime’ include the prevention of traffic offences, which clearly come within the scope of the criminal law. To set up a police speed trap, not only for the purpose of detecting offenders, but in order to deter motorists from exceeding the lawful speed limit, which is itself set for the purpose of the protection and general safety of the public, both motorists and non-motorists, must also form part of the obligations and duties of police officers. It follows that at the material time each of these two women police officers was generally acting in the due execution of her duty.

12. However, says Mr. Merrien, that is not enough in the particular circumstances of this case, for the uncontroverted evidence shows that at the critical moment W.P –c Palmer left her colleague's side in order to answer a phone call in the patrol car. The critical moment in time was when the behaviour of the Appellant reached the pitch where W.P –c Sylvester made up her mind to arrest him, and, moreover, to arrest him for a different offence from that with which he was later charged. Furthermore, while Mr. Merrien accepts that he did not touch on the point that the operation of a speed check required two officers, and, W.P –c Palmer having left the immediate vicinity, that the alleged obstruction of W.P –c Sylvester did not *ipso facto* extend to an obstruction of her colleague, until half-way through his final address, it was nevertheless wrong for the Magistrate to excise the second Officer from the charge. It was all the more wrong, said Mr. Merrien, for the Magistrate to have found that W.P –c Sylvester alone was obstructed. This forms Ground 4 of the Grounds of Appeal.

13. Mr. McKerrell submitted that it was unrealistic to suggest that a police officer was only acting in the line of duty when performing a specific act, and that the phrase ‘execution of [her] duty’ includes the acts necessarily done on either side of the principal duty which he or she was performing at the relevant time. In particular Mr. McKerrell referred to the passage at the beginning of her evidence where W.P –c Sylvester said that she was monitoring for speed and other offences. It followed that if, for example, an officer observed a pedestrian attacking another pedestrian, or committing an act of criminal damage, while she was monitoring the speed of passing vehicles, all acts done by the officer in trying to prevent further assaults or damage, or in apprehending those responsible would be in the execution of the officer's duty.

14. Mr. McKerrell drew to the Court's attention the decision in Lewis v. Cox [1984] 3 A.E.R. 672 in which the defendant had twice opened the rear door of the police van in order to enquire where the man the police had arrested for being drunk and disorderly was to be taken, the second time after a warning by one of the officers. It was submitted on the defendant's behalf, on the authority of Willmott v. Atack [1976] 3 A.E.R 794 that Cox's

acquittal by the justices on the ground that his conduct was not aimed at the police was justified. In distinguishing that case the Divisional Court held that the defendant's act was wilful, notwithstanding that it was not specifically hostile to or aimed at the police.

15. The Court in *Lewis v. Cox* followed the passage I have set out above from Lord Parker C.J in *Rice v. Connolly*, and another from Lord Goddard C.J in the earlier case of *Hinchcliffe v. Sheldon* [1955] 1 W.L.R. 1207 at page 1210, to the effect that the word 'obstruct' in Section 51 (3) of the Police Act 1964 means 'the doing of any act which makes it more difficult for the police to carry out their duty'. That definition had also been cited with approval by Lord Parker C.J, as both passages have in the other cases placed before the Court, namely *Coffin v. Smith* [1981] 71 Cr.App.R. 221, *Green v. Moore* [1982] Q.B 1044, and *Hills v. Ellis* [1983] 76 Cr.App. R 217. As Section 51 (3) is identical in this respect to Section 1 (2) of the Guernsey Law I have no hesitation in holding that the tests stated in the two earlier cases are the correct ones to apply in considering a charge under our Law.

16. In the instant case it is clear that the facts found by the Magistrate demonstrably established that the Appellant's acts amounted to an obstruction within the meaning of the sub-Section. They established that what the Appellant did amounted to harassment of the Officer, and there was in my view ample justification for the finding of hostility on his part. It would also in my judgment be unreal to hold, as Mr. Merrien contended, that at the moment of the obstruction W.P –c Sylvester's capacity to carry out the speed check was interrupted or discontinued. Without any disrespect for Mr. Merrien's most attractive submission, I consider that the brief absence of W.P –c Palmer from the precise spot where the altercation was going on between W.P –c Sylvester and the Appellant did not mean that the former was not, at the moment of the proved obstruction, acting in the due execution of her duty.

17. While it might have been more satisfactory if the charge had been amended at an earlier stage I do not consider that the late amendment has occasioned any injustice or prejudice to the Appellant, and I am satisfied he was properly and rightly convicted. For these reasons I dismiss the appeal.

A.R.W.Hancox.
Lieutenant Bailiff
26th February 2004