

Judgment 16/2005

**Darren Andrew Bishop – Royal Court –
29 March, 2005**

Criminal appeal from Magistrates Court – against sentence on three counts of burglary – totality principle – appeal allowed to the extent that the three sentences, each of two months, were varied so as to be concurrent rather than consecutive.

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 29th day of March, 2005 before Geoffrey Robert Rowland, Esquire, Deputy Bailiff; present:- David Charles Lowe, Laurence Lenfestey Guille, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Michael John Wilson, Michael Henry De La Mare, Esquires, and Susan Mowbray, Jurats.

In the action of THE LAW OFFICERS OF THE CROWN against DARREN ANDREW BISHOP (“the Appellant”) to pursue the appeal of which the said Appellant gave notice against the sentence imposed upon him by the Magistrate’s Court on the 21st day of February, 2005, in the terms attached hereto;

THE COURT, having heard Advocate P. Lockwood for the Appellant and Advocate G. D. McKerrell for the Crown, ALLOWED the Appeal to the extent that the sentences of two months’ youth detention for each of the three offences of burglary shall be varied to run concurrently, but shall remain consecutive to the five months’ youth detention imposed on the 4th day of January, 2005, the effect to be that the Appellant shall serve a total of seven months’ youth detention.

M. A. TOSTEVIN
Her Majesty’s Deputy Greffier

DARREN ANDREW BISHOP

Decision of Court

1. THE DEPUTY BAILIFF: Darren Andrew Bishop, aged 17, having pleaded guilty to three burglaries was sentenced by the Assistant Magistrate on 21st February 2005. The offences were each burglaries of commercial premises and they were committed on a single night.
2. Mr. Bishop's role was that of a watchman. That role is an important one in any burglary involving two or more persons and is viewed seriously by the Court. The total value of the stolen goods was just under £3,000. Damage was also caused to the properties. The extent of the loss caused to the proprietors of the burgled premises is evident from the compensation orders which the Court made.
3. Mr. Bishop was sentenced by the Assistant Magistrate to 2 months' Youth Detention on each offence. The sentences were imposed so as to run consecutively. The sentences were also imposed consecutively to a cumulative sentence of 5 months Youth Detention imposed in the Magistrates Court. This earlier sentence reckoned and computed from 4th January 2005. It was anticipated on 21st February that the release date for the sentences being served at that time would be 14th April 2005.
4. The Court has noted Mr. Bishop's involvement in the burglaries and his criminal record has also been taken into account; his youth; his previous convictions and his early guilty plea. The Court considers that taken individually each sentence was commensurate with the gravity of the offences. A sentence of 2 months for each offence was not manifestly excessive. That was not contested by Mr. Bishop.
5. Advocate Lockwood in an able and measured submission has submitted that the Assistant Magistrate erred because the aggregate sentence which was imposed was not just and appropriate having regard to the totality principle. Consecutive sentences are always subject to the totality principle. Furthermore, a sentencing Judge imposing sentences on a Defendant who is serving an existing sentence should have regard to the totality of the period which the Defendant was due to serve for the offences for which he had previously been convicted as well as the matters with which the judge is currently dealing.
6. The Court notes that the dates when the offences, which resulted in the 5 months Youth Detention imposed on 4th January 2005, had been committed were during a relatively short

period in October, November and December of 2004, and that the three burglaries were on 22nd November 2004.

7. The Court has given careful consideration to the submissions made on behalf of the Appellant.
8. The Court, having taken into account in particular the age of Mr. Bishop has concluded that there should be a reduction of 4 months in the total period to be served. Accordingly, the Court varies the sentence imposed on 21st February so that each of the 2 month sentences of Youth Detention shall be concurrent, but consecutive to the sentence then being served, which had been imposed on 4th January 2005. To that extent the appeal succeeds.
9. So you understand that, 4 months off, you are only 17 years old, but the Court is very concerned by your conduct. It must not happen again, you understand that?

DEFENDANT: Yes.

THE DEPUTY BAILIFF: You have probably been dealt with quite leniently this morning.
Thank you very much.

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S.M. O'Neill
Tuesday 29th March 2005