

**Judgment 4/2005**

**(i) André Mercier; (ii) Valerie Mercier –  
Royal Court – 18 January, 2005**

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**Criminal appeal from the Magistrates Court – sentence – theft from shops – seven month concurrent sentences – appeals dismissed.**

**IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY**

The 18th day of January, 2005 before Geoffrey Robert Rowland, Esquire, Deputy Bailiff; present:- David Charles Lowe, Laurence Lenfestey Guille, Derek Martin Le Page, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael John Wilson, Michael Henry de la Mare, Esquires and Susan Mowbray, Jurats.

**Magistrate’s Court Appeal No. 31 of 2004**

In the action of THE LAW OFFICERS OF THE CROWN against VALERIE MERCIER (“the Appellant”) to pursue the appeal of which the said Mercier gave notice against sentence imposed upon her by the Magistrate’s Court on the 15<sup>th</sup> day of December 2004 in the terms attached hereto;

THE COURT, having heard Advocate S. Mallett for the Appellant, and Advocate P. Robey for the Crown, in the presence of Mrs. Corin Joy, Interpreter and two members of the French Consulate, DISMISSED the Appeal.

S. M. SIMMONDS  
Her Majesty’s Deputy Greffier

18th day of January, 2005 before Geoffrey Robert Rowland, Esquire, Deputy Bailiff; present:- David Charles Lowe, Laurence Lenfestey Guille, Derek Martin Le Page, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael John Wilson, Michael Henry de la Mare, Esquires and Susan Mowbray, Jurats.

**Magistrate’s Court Appeal No. 32 of 2004**

In the action of THE LAW OFFICERS OF THE CROWN against ANDRE MERCIER (“the Appellant”) to pursue the appeal of which the said Mercier gave notice against sentence imposed upon him by the Magistrate’s Court on the 15<sup>th</sup> day of December 2004 in the terms attached hereto;

THE COURT, having heard Advocate S. Mallett for the Appellant, and Advocate P. Robey for the Crown, in the presence of Mrs. Corin Joy, Interpreter and two members of the French Consulate, DISMISSED the Appeal.

S. M. SIMMONDS  
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**IN THE ROYAL COURT OF GUERNSEY  
SITTING AS A FULL COURT**

**Before the Deputy Bailiff and Jurats**

**Valerie Mercier**

**Andre Mercier**

**Appeals against Sentence**

1. The Court has given most careful consideration to the submissions made by Miss Mallett representing both Appellants namely Valerie Mercier and her father Andre Mercier.
2. The Court has noted that by the time the Appellants were arrested in St Peter Port they had spent less than six hours in Guernsey on a day trip from France. The shops in St Peter Port were open for probably no more than 4 ½ hours of that time. Within that time Miss Mercier had stolen from 12 shops some 60 items, many of them of high value, which together amounted in value to over £2,300. She had come to Guernsey with £200 and did not make any purchase other than a small nominal purchase. She was wearing both a coat and an inner coat. She was not an immature young person but apparently a well-educated mature lady aged 37.
3. She was accompanied throughout her dishonest plundering of shops by the second Appellant her 69-year-old father who by his own admission took no steps to restrain her even though, he says, it became apparent to him early on that she must have been stealing goods. The second Appellant did not distance himself from his daughter's flagrant unlawful conduct. Instead he assisted her by receiving the goods from her and helping her put them in his car.
4. The Assistant Magistrate was satisfied that the thieving by Miss Mercier and the receiving by Mr Mercier was not spontaneous but was pre-planned and deliberate. The thieving was repeated and constituted serious serial sophisticated dishonesty. The Court concurs with the Magistrate's view. It was a totally cynical systematic pre-Christmas professional raid on Guernsey shopkeepers. It was not impulsive or opportunistic. There were professional hallmarks and that professionalism is an aggravating factor. There can be no other intelligible explanation for their conduct.
5. The Assistant Magistrate made plain her reaction to this type of conduct –  
  
*“those who travel to Guernsey with the expressed intention of stealing, or those who form that intention whilst on the Island, must and will expect to be severely dealt with by this Court.”*
6. This Court concurs with her observations.
7. The Court notes that the Assistant Magistrate had taken into account the totality of the mitigation and had given a discount for an early plea of guilty in each case, expressing the view that the offending was so serious that had the Appellants been found guilty after a contested trial she would have imposed the maximum sentence of 12 months imprisonment.

8. The Court has given careful consideration to the 7-month concurrent sentences imposed on both Appellants. The Court has concluded that the culpability of each Defendant was substantially similar. The offence of receiving is not regarded as less serious than theft. Indeed on Indictment the maximum sentence for theft is 10 years and it is 14 years for handling stolen goods or receiving.
9. Having taken into account the substance of both pleas in mitigation in the Magistrate's Court, this Court does not consider that there was any reason for the Appellants to have been treated differently by the Assistant Magistrate.
10. This Court then considered the length of the sentences imposed. It noted that they were to be reckoned not from the date of arrest and detention but from the date of sentencing. It has been argued on behalf of the Appellants that the sentences imposed in the Magistrate's Court on each of the Appellants were manifestly excessive.
11. The Court considers that the sentences were severe but appropriately so. A severe sentence for such serious dishonesty cannot, in this Court's view, be said to be manifestly excessive even for first time offending by persons of previous good character without any previous convictions recorded against them.
12. The Court gave careful consideration to whether the sentences should have been suspended. It concluded that the sentences should not be suspended.
13. The Appeals brought by the Appellants are therefore dismissed. The sentences imposed in the Magistrate's Court are upheld.