

Judgment 47/2005

**Robert James Batiste – Royal Court –
1 August, 2005**

Criminal appeal from the Magistrate’s Court – sentence – assault – five months’ imprisonment – appeal dismissed.

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 1st day of August, 2005 before Geoffrey Robert Rowland, Esquire, Bailiff; present:- David Charles Lowe, Derek Martin Le Page, Stephen Edward Francis Le Poidevin, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Esquires, The Reverend Peter Gerald Lane, Michael Henry De La Mare, Michael John Tanguy, Esquires, Barbara Jean Bartie, and David Osmond Le Conte, Esquire, Jurats.

No.21 of 2005

In the action of THE LAW OFFICERS OF THE CROWN against ROBERT JAMES BATISTE (“the Appellant”) to pursue the appeal of which the said Batiste gave notice against sentence imposed upon him by the Magistrate’s Court on the 24th day of June, 2005 in the terms attached hereto;

THE COURT having heard Advocate S. Mallett for the Appellant and Advocate P. Robey for the Crown DISMISSED the Appeal.

S. M. SIMMONDS
Her Majesty’s Deputy Greffier

Appeal Against Sentence

Robert James Batiste

1st August 2005

1. On 24th June you were sentenced for 2 offences of assault both of which were unprovoked and were rightly described by the Assistant Magistrate as being vicious. One was committed on the evening of Liberation Day and the other early in the morning of 24th June. You entered pleas of guilty to both offences.

2. You have appealed against sentence on the first offence only.

Offence 1 – Liberation Day 2005

3. On Liberation Day 2005 you had assaulted a Portuguese man striking him just below the eye with your fist. This Court deplors assaults, which involve punching somebody full in the face. You are a powerful man. Although the Assistant Magistrate did not expressly comment on it, it appears that you uttered a word, which suggests that there was a racial element underlying the attack. You also pulled the man's jacket off.

4. This Court considers that in view of your shocking criminal record, which included many offences of assault, a sentence of 5 months for an unprovoked vicious assault was correct, notwithstanding that you had entered a plea of guilty.

Offence 2 – 24th June 2005

5. You have not appealed against the sentence imposed on 24th June 2005 but it is of relevance to this appeal.

6. The assault committed on 24th June involved 2 punches to the ear of the victim followed by kicking the victim 3 times. You were on bail at the time.

7. The Court considered that if taken on its own the appropriate sentence for the offence committed on 24th June would with your record have been closer to 8 months notwithstanding a guilty plea. The Assistant Magistrate stated that she had applied the totality principle. It is clearly evident that she did.

8. The Assistant Magistrate said that she could not “over emphasise the seriousness of your actions”. This Court concurs with the view which the Assistant Magistrate held. As she said each of the victims would have suffered physical and emotional trauma.

9. A total sentence of 10 months imprisonment including a sentence of 5 months for the first offence was neither wrong in principle nor manifestly excessive. It was entirely appropriate.

10. This Court rejects your appeal. It was entirely without merit.