

# The Attorney General v Paul Ware

<b>Jurisdiction:</b>	Jersey
<b>Judge:</b>	Bailiff
<b>Judgment Date:</b>	13 February 2001
<b>Neutral Citation:</b>	[2001] JRC 37
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<b>Court:</b>	Royal Court
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## Text

[2001] JRC 037

ROYAL COURT

(Samedi Division)

Before:

M.C. St. J. Birt, Esq., Deputy Bailiff, and Jurats Le Ruez and Quérée

The Attorney General  
and  
Paul Ware

J.C. Gollop, **Esq., Crown Advocate;**

**Advocate R. Juste for the accused.**

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**Authorities**

Firearms (Jersey) Law, 1956: Articles 24–27.

Loi (1879) sur le Port d'Armes.

1 count of: possessing a firearm with intent to cause serious injury to property, contrary to Article 24 of the Firearms (Jersey) Law, 1956: count 1;

1 count of: having an offensive weapon, contrary to Article 27 of the Firearms (Jersey) Law, 1956: count 2;

1 count of: using a firearm with intent to resist or prevent lawful detention, contrary to Article 25(1) of the Firearms (Jersey) Law, 1956: count 3;

1 count of: possessing a firearm without a Port d'Armes permit, contrary to Article 5 of the Firearms (Jersey) Law, 1956: count 4.

**Age:** 46.

**Plea:** Guilty.

**Details of Offence:**

At the beginning of 2000, Ware purchased a SPAS 12 gauge convertible pump-action/self-loading shotgun for the sum of £200 from a friend. Ware subsequently stated that he had purchased the gun with the intention of using it upon himself. He was aware of the need to obtain a Port d'Armes permit and, whilst he completed the application form, he did not submit it to the Constable.

Ware had suffered from depression for a number of years and was finally “pushed over the edge”, with the collapse of his business and the breakdown of his 21 year marriage. He attempted to commit suicide by taking an overdose and, thereafter, was admitted on a number of occasions for psychiatric treatment.

On 27<sup>th</sup> May, 2000, whilst under the influence of alcohol, Ware drove to the former matrimonial home, and this with the intention of speaking with his ex-wife. He took with him the shotgun, which was loaded. He entered the property through an insecure patio door and he fully expected his ex-wife to be present. However, he found the property unoccupied. Whilst in the master bedroom, he became distressed and fired at least 6 cartridges into the fitted wardrobes located within the room, causing damage to the wardrobes and the clothing contained therein. He then went downstairs and shot at least at least two cartridges into the family computer, destroying same and causing other damage. The total damage caused by Ware discharging the shotgun at the property was assessed at £3,815 (count 1).

Ware then drove to his former in-laws' property and, once again, carried with him the shotgun. In an agitated state, he demanded to know where his ex-wife was. He was

advised by his former in-laws that she was in London. Ware did not threaten either of his former in-laws and, in fact, no reference at all was made to his holding the shotgun by any of the three people present. However, his former mother-in-law was very frightened and was concerned for her daughter's welfare. She telephoned the police. Ware then left the premises.

Police firearm officers were instructed to keep a lookout for Ware's van. The van was located and the police officers followed the van from St. Helier to a picnic area at St. Ouen. Ware was noted to be driving erratically and travelling at speeds of between 30 and 50 mph on his journey (count 2).

Police officers were deployed and the officers were eventually able to confirm the identity of Ware. Contact was made by a trained police negotiator via Ware's mobile 'phone and efforts were made to persuade him to give himself up to the police. However, Ware drove to the end of the picnic area and then fired the shotgun through the roof of the van. The police then persuaded Ware to throw the shotgun out of the window and he was subsequently handcuffed and taken to police headquarters. The breathalyser procedure was undertaken, but his lowest output did not exceed the prescribed limit.

He was interviewed under caution and admitted that he had taken the shotgun to the former matrimonial home with the intention of showing his ex-wife *"that he meant business and to frighten her a bit."* However, it was not his intention to harm his wife. He had driven to St. Ouen with the intention of committing suicide and he had fired the shotgun into the roof of the van intentionally, in the hope that it would cause the police officers to leave him alone. Ware was released from police custody and was then admitted as a voluntary patient for psychiatric treatment. He was in receipt of further psychiatric treatment prior to charges being brought and his appearance before the sentencing court.

### **Details of Mitigation:**

It was the Crown's view that, given Ware's previous experience in using a firearm from his military service and that he was in an emotionally disturbed state, all the elements for a tragedy were present. It was only due to good fortune that a tragedy was avoided. The Crown reached the conclusion despite the seriousness of the offences, that for the wider interest of the public and the specific interests of Ware, such interests would be best served by the imposition of a non-custodial sentence. The SER and psychiatric reports produced indicated that there had been an improvement in Ware's circumstances, and also in his mental health. Ware had pleaded guilty and had been fully co-operative with the police, including signed disclaimers in respect of not only the pump-action shotgun but also a cross-bow and three bolts which had been found at his property. The offences were also out of character. Defence counsel concurred that a non-custodial sentence was appropriate and submitted that no one was actually threatened by Ware and that he had no intention to harm anyone, other than himself. These offences were clearly a "cry for help". Following the offences, there was a delay before the charges were brought against him, and there was an indication from the police that no charges would be brought. Therefore, Ware was greatly distressed when charges were brought. However, since the offences, there had been no further incidences and the matters which had "pushed him over the edge" had either been resolved or substantially progressed and had resulted in a vast improvement in his mental

health. He deeply regretted the offences. He had established a good relationship with his ex-wife and the imposition of a custodial sentence would be detrimental to the improvements that have been made. He was also in a new relationship.

### **Conclusions:**

Counts 1–3: 3 year Probation Order, with a condition of not possessing a firearm in this time.

Count 4: £5 fine or 7 days' imprisonment in default of payment.

### **Sentence & Observations of Court:** Conclusions granted.

Each member of the Court had individually, upon reading the papers, expressed surprise that the Crown had not moved for a custodial sentence. This was a very frightening incident for Ware's ex-in-laws and the other people involved. Those persons who commit such offences would normally expect to receive a custodial sentence, save in very exceptional circumstances.

The Crown and the defence were in agreement that this was a cry for help and that there was no intention to harm anyone, other than possibly an intention to harm himself. He was a man of good character, aged 46, had pleaded guilty, and was co-operative. The Court accepted that the offences had substantially been caused by his depression from his inability to accept the breakdown of his marriage. However, the offences took place in May and he had not been charged until September. He had been on a warning only since being charged, and there had been no further offences. There had been a vast improvement in his mental health and circumstances, and his ex-wife was now supportive of him and trusts him with their son.

The Court, without hesitation, just felt able to deal with these offences as suggested by the Crown. The Court noted that the pump-action shotgun was a frightening weapon and, under the existing Law, there was no need for a firearms certificate. However, had the 1999 Law been in effect, then Ware could not have purchased the gun without first obtaining a firearms certificate. The 1999 Law had been approved by the Privy Council some time ago and the Royal Court expressed the wish that those who have responsibility for bringing the legislation into effect, should endeavour to do so without further delay so as to cover the gap in the 1956 legislation.

Bailiff

### **THE DEPUTY**

- 1 As the Court said to Mr. Gollop, when we read the papers, each member of the Court had the same reaction, namely that we were surprised that the Crown had moved for a non-custodial sentence.

- 2 This must have been a very frightening incident for the parents of Mrs. Ware and the other people concerned. It was fortunate that the defendant's wife was away; who knows what might have happened if she had been there.
- 3 We wish to emphasise that those who carry and use loaded shotguns unlawfully can expect to receive a custodial sentence save in very exceptional circumstances. Are such circumstances present in this case?
- 4 The Crown and the defence are agreed that this was a cry for help. There was no intention to harm anyone; there was only possibly an intention to harm himself. Mr. Ware is a man of previous good character aged 46. He has pleaded guilty and he has been wholly co-operative. It is quite clear that these offences were caused substantially by his depression; he was unable to accept that his marriage was over.
- 5 The offences took place in May, 2000, but he was not charged until September; he has been remanded on a warning throughout and there has been no recurrence of this behaviour, or anything like it. On the contrary, all the reports that we have show that he has made progress in conquering his depression. Indeed, we were told that only last week he has had his son to stay with him for a week and it is clear that his former wife is supportive of him and trusts him with the care of their son.
- 6 We have received the benefit of psychiatric reports and it is clear that this defendant still needs the support of the psychiatric services.
- 7 Not without hesitation we just feel able to deal with this matter in the way that the Crown has suggested. Accordingly, Mr. Ware, on counts 1–3, we are going to place you on probation for three years and during that time you will be subject to the conditions that you will not possess, use, or carry any firearm as defined either by the 1956 Law or the new 1999 Law; so that includes shotguns. Secondly, that you must maintain contact with and comply with the directions of the psychiatric services. Furthermore, it is the condition of any probation order that you comply with the directions of your Probation Officer and do as he tells you. If you breach any of these conditions you are likely to find yourself back before this Court, in which event you will almost certainly be sent to prison. On count 4, you are fined the sum of £5, or seven days' imprisonment in default of payment.
- 8 The Court would end by saying this. This frightening weapon could be purchased without the need for any permit because it is not a firearm for the purposes of the 1956 Law. Had the 1999 Law been in effect, this defendant could not have purchased the weapon without having first obtained a firearms certificate which would have, at the very least, involved checks by both the States Police and the Connétable. The Firearms (Jersey) Law, 1999 was passed some time ago by the States and has been returned from the Privy Council and we urge those whose responsibility it is to bring it into effect, to do so as soon as possible so as to cure the gap in the legislation which has manifested itself in this case.

