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## COURT OF APPEAL (ENGLAND)

**KAY v R****Watkins LJ, Purchase & Tudor Evans JJ****21 July 1980**

**SENTENCING - SENTENCE OF IMPRISONMENT IMPOSED - IMPACT OF IMPRISONMENT ON PARTICULAR OFFENDER - WHETHER COURT SHOULD TAKE INTO ACCOUNT IN SENTENCING HOW A PERSON REACTS TO PRISON LIFE.**

The applicant pleaded guilty to robbery in company with two others and was sentenced to 5 years' imprisonment. He had no previous convictions. He found prison life a very harsh experience and required psychiatric help and medication.

**HELD: Appeal as to sentence of imprisonment disallowed.**

**How a person reacts to prison life is not a matter which should affect the principle of the sentence. When sentencing a person the court is concerned with the character of the crime and the individual circumstances as revealed in the criminal background, if any. It is a matter for the prison authorities to deal with the most unhappy situation which has developed in the present case within the context of the prison system.**

**TUDOR EVANS J:** ... Counsel submits that as a matter of principle if a person is shown subsequently to suffer extraordinarily as a result of prison then this Court can, and should, take his reaction into account when considering an appeal on sentence. Before we consider the application of that submission to the facts of this case, we should say that it is perfectly plain from all the material which I have mentioned that prison life is a very harsh experience for Kay. It is plain from the evidence before the Court that he is unable to come to terms with his sentence and that he suffers very sorely at the hands of his fellow prisoners. Other than that we do not feel it necessary to go into the details of the report from the prison, the letter from the chaplain and the other sources of information, but simply that we have borne the contents of all those documents in mind. We add that it has unfortunately been necessary for Kay to be seen by a psychiatrist and to be supported by medication and the probation officer.

... It seems to this Court that how a man reacts to prison life is not a matter which should affect the principle of the sentence. When sentencing a man the court is concerned with the character of his crime and with his individual circumstances as revealed in his criminal background, if any. ... It seems to this Court that it is really a matter for the prison authorities to deal with the most unhappy situation which has developed in the case of Kay within the context of the prison system.

[Note: The appeal against the 5-year term of imprisonment was unsuccessful, but the period of disqualification from obtaining a driving licence (10 years) was reduced to three years. Commentary: 1980 Crim LR; 1981 Crim LR 59 for a discussion of the issues raised in this case.]