

ROYAL COURT
(Superior Number) 53A,

16th April, 1991

Before: The Bailiff, and
the Full Court.

The Attorney General

- v -

John Clarkin

Sentencing, following
change of plea to guilty
on one count of possession
of a controlled drug, with
intent to supply to
another, contrary to
Article 6(2) of the Misuse
of Drugs (Jersey) Law,
1978. (830 units of
L.S.D.).

DETAILS OF OFFENCE: 830 units. He was detained by a Customs Officer during the raid on the Cambridge Bar. Taken to Police Headquarters for a strip search. Small plastic bag found clutched in his hand: bag contained the 830 units.

DETAILS OF MITIGATION: Very slight residual mitigation for change of plea; more importantly, the detention and search of his person had been declared unlawful by the Court below because the Customs Officer had not been named on the search warrant. (The evidence had nevertheless been held to be admissible).

PREVIOUS CONVICTIONS: Various - but none for drugs.

SENTENCE AND OBSERVATIONS OF THE COURT: No true distinction with Fogg. But for sense of grievance/injustice because the search and detention were illegal he would have received the same sentence. Conclusions granted, therefore five and a half years.

C.E. Whelan, Esq., Crown Advocate.
Advocate Mrs. S.A. Pearmain, for the Accused.

JUDGMENT

BAILIFF: We have been invited by counsel to equate this case with the previous one of Pockett. We cannot do that. The amount involved is considerably more and the degree of involvement is very similar not to Pockett, but to the case of Fogg. It is quite true that the accused does not have a previous conviction as had Fogg, but apart from that, had it not been that the search of Clarkin had been illegal which, if we did not make a distinction because of that with the case of Fogg when considering sentence, might leave him with some sense of grievance, we would have felt that there was no significant difference between this case and that of Fogg and that six years would have been the appropriate sentence.

In our opinion we think that the Crown has made a proper deduction to allow for that particular matter and therefore the conclusions are granted; you are sentenced to five and a half years' imprisonment. There is an order for forfeiture of the drugs.

Authorities

- A.G. -v- Fogg (8th April, 1991) Jersey Unreported C. of A.
A.G. -v- Fogg (11th December, 1990) Jersey Unreported.
A.G. -v- Hillis (12th October, 1990) Jersey Unreported.
A.G. -v- Clohessy & Roberts (25th January, 1989) Jersey Unreported.
A.G. -v- Brown (26th April, 1985) Jersey Unreported.
A.G. -v- Brown (1st July, 1985) Jersey Unreported; (1985/86) JLR N.21.
Thomas' "Principles of Sentencing" (2nd Ed'n): Offences connected with
Drugs: pp. 182-190.
- Thomas' Current Sentencing Practice (2nd Ed'n):
- R. -v- Bott & Ors (1979) 1 Cr. App. R. (S) 218;
 - R. -v- Aramah (1982) 4 Cr. App. R. (S) 407;
 - R. -v- Martinez (1984) 6 Cr. App. R. (S) 364;
 - R. -v- Ahmad (1980) 2 Cr. App. R. (S) 19;
 - R. -v- Taylor & Ors (1980) 2 Cr. App. R. (S) 175;
 - R. -v- Bennett (1981) 3 Cr. App. R. (S) 68;
 - R. -v- Virgin (1983) 5 Cr. App. R. (S) 148;
 - R. -v- Bowman-Powell (1985) 7 Cr. App. R. (S) 85;
 - R. -v- Gerami & Haranaki (1980) 2 Cr. App. R. (S) 291;
 - A.G. -v- Young (1980) JJ 281;
 - R. -v- Singh (1988) 10 Cr. App. R. (S) 402;
 - R. -v- Ocheja (1988) 10 Cr. App. R. (S) 277.