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ROYAL COURT

22nd November, 1991 174.

Before: The Bailiff assisted by  
Jurats Blampied and Herbert

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Attorney General

- v -

AS

MM

and

PC

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**OFFENCE:**

AS : (1) Possession of cannabis with intent to supply (2) supply of cannabis;

MM : (1) possession of cannabis (2) possession of ecstasy;

PC : (1) possession of cannabis (2) possession of ecstasy.

**PLEA:** Guilty.

**DETAILS OF OFFENCE:**

Police found 178.418 grammes of cannabis (street value £2,600).

AS and MM part owners of the cannabis. AS intended to sell some to fund his habit. Admitted supplying cannabis in the past. PC assisted in taking the cannabis to its hiding place. MM and PC owned the ecstasy.

**DETAILS MITIGATION:**

AS : Long standing drug habit. Youth. Co-Operation. Intention to give up drugs. MM : Youth. Remorse. Pregnant girlfriend.

PC : Youth. Minor involvement. Mother a depressive who committed

suicide - he found her body. Very disturbing effect. No previous record.

**PREVIOUS CONVICTIONS:**

AS : minor, but one for possession of cannabis. MM : minor, but one for possession of cannabis. PC : none.

**CONCLUSIONS:**

AS : 21 months on each count concurrent. MM : (1) 2 months (2) 9 months concurrent. PC : one year's probation on each concurrent. Drugs to be forfeited and destroyed.

**SENTENCE AND OBSERVATIONS:**

Drugs offenders, even young offenders, must realise that they face custodial sentences. However, conclusions reduced because of age.

AS : (1) and (2) 18 months on each concurrent. MM : (1) 2 months (2) 8 months concurrent. PC : Mother's death an exceptional circumstance. (1) and (2) 1 yr.'s probation on each. Drugs forfeited and destroyed.

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Miss S.C. Nicolle, Crown Advocate.

Advocate A.P. Begg, for AS

Advocate S.A. Meiklejohn, for MM

Advocate A.D. Robinson, for PC

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**JUDGMENT**

BAILIFF: This is not a case which has given us any pleasure, indeed few cases do. This is a sad case in many ways, it is an example of young men - and they are all very young men really - getting involved, one more seriously than the others of course, in the drugs scene in this Island.

It is obvious to the Bench, not only in this Court, but in the Magistrates Court, that without drugs being supplied, the

drugs problem in the Island would be considerably less. On the other hand, without young people deciding to indulge in and experiment with drugs, which the law quite clearly says are illegal, there would be much less of a problem.

It has to be stressed by this Court, and I do so now, that young men, and possibly women if they are involved as well, who are voluntarily involved in the Island drugs scene, run a considerable risk of losing their liberty; in fact, unless there are special circumstances, they will in all probability lose their liberty. A new, or relatively new, principle has been laid down by the Magistrates' Court that even a first offender with a class B drug, which is usually cannabis, may expect a term of imprisonment.

This Court has a duty to uphold substantial terms of imprisonment where there is clear evidence of a considerable use or possession of drugs, and particularly where they are supplied or where someone is in possession with intent to supply. However, I return to what I said at the beginning of my remarks: all these three young men are young and some allowance must be made for that in the case of AS and MM. In the case of PC, we are not going to impose a tariff sentence but for different reasons: his age is there it is true, but it is because of the exceptional circumstances with his family, which I will not repeat in open Court, but which are referred to in the probation report. Because therefore, AS

you are still young, although you have a previous conviction, we think that the appropriate sentence for you in respect of count one, is one of eighteen months and you will be sentenced accordingly, in respect of count five, also eighteen months concurrent.

MM , you were involved in this scene in a way not as minor as was suggested by your counsel but we make allowance for your age, as I have said, and we are going to reduce the conclusions slightly. So far as your girlfriend is concerned, I am going to read to you a passage, which has been used on many occasions in this Court; I do so without any pleasure but this is the passage from a well known book on the question of mitigation because of family circumstances. This is what the Court says in England and this Court has used this passage before.

*In Lewis the Court refused to reduce sentences of imprisonment totalling three and a half years imposed for burglary, stating that it had been urged "to take into consideration the unhappiness and the distress that his misdeeds had brought upon his dependents".*

The Court goes on:

*"That alas, is something which is an inevitable consequence of crime and it is something which the Court cannot regard as a mitigating circumstance".*

And the Court also added:

*"This Court is very sensitive to the distress and hardship which sentences of this nature unnecessarily bring upon the family, friends or relations of convicted persons but this is one of the penalties which convicted persons must pay"*

And having said that, we think the appropriate sentence for you, MM , in respect of count one is two months imprisonment, and on count six, eight months imprisonment (concurrent).

PC, you are placed on probation for one year, to live and work as directed by your probation officer, to be of good behaviour during that period and to come for sentence whenever required so to do and you understand the effect of what disobedience to that order could mean. One other point I ought

to mention, we have not accepted the plea Mr. Meiklejohn that your client, had he been dealt with in August, would have been sentenced to a term of imprisonment within the Children (Jersey) Law, 1969. Reserving his plea and then pleading not guilty made that impossible to do, and therefore as I say, you are sentenced to probation. If you fail in your probation, you will come back to this Court and you may receive a sentence of imprisonment. We are not imposing a community service order because you want to continue with your academic career, and we hope you will do so. We will also make an order for forfeiture and destruction of the drugs.

Authorities

Thomas - principles of sentencing (2nd Ed.): page 211.

A.G. - v - Thomas (15th November, 1991) Jersey Unreported.

Woodward & Anor. (15th January, 1970) Court of Appeal (Criminal Division) p. 287.