

**ROYAL COURT**

(Superior Number)

34

5th March 1992

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**Before:** The Bailiff and Jurats Coutanche, Vint,  
Blampied, Orchard, Hamon, Gruchy, Vibert, Herbert  
and Rumfitt

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**Her Majesty's Attorney General**

-v-

**Mark Ian Schollhammer**

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1 Count of Importation of Controlled Drug, contrary to  
Article 23 of the Customs and Excise (General Provisions)  
Jersey Law, 1972.

**PLEA:**

Guilty

**DETAILS OF OFFENCE:**

Stopped by customs at airport coming in from Glasgow via  
Heathrow. X-ray'd. 6 rubber pouches evacuated from  
rectum. Each pouch was a deflated rubber balloon  
containing tablets. Analysis showed 200 tablets,  
M.D.M.A. street value £5,000. Accused claimed he was  
bringing them in for a one-off payment, but would not  
identify his contacts.

**DETAILS OF MITIGATION:**

Youth, no previous for drugs, plea of guilty. BUT heavy  
psychological dependence and "mere courier" submissions  
not accepted as exceptional circumstances. Nor was the  
fact that he had been imprisoned for something else at an  
early age and had got involved in drugs only as a result  
of attending "the university of crime".

**PREVIOUS CONVICTIONS:**

- 1 x Assault (probation)
- 1 x Indecent Assault (3 years prison)

**CONCLUSIONS:**

3 years 6 months

**SENTENCE AND OBSERVATIONS  
OF THE COURT:**

Conclusions granted. (1) people receive guidance in prison - consultant psychologist visits every Wednesday. (2) Self-induced dependency is no mitigation. (3) All in authority (including probation service) and islanders generally should bend over backwards to do whatever is necessary to curtail drug offences.

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C.E. Whelan, Esq., Crown Advocate  
Advocate A.D. Robinson for the accused

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**JUDGMENT**

**BAILIFF:** The first matter this Court had to decide was whether the fact that the accused had become psychologically dependent on drugs was an exceptional circumstance which would entitle the Court to depart from its usual sentencing policy.

The Court is quite clear that self-induced drug dependency, no more than self-induced alcohol dependency, is not an exceptional circumstance. We are aware and take judicial notice of the fact that the amount of drugs in the Island, and the unlawful use of those drugs, have increased considerably over the last two to three years. Indeed the

picture in the probation report may be described as gloomy, but that does not mean to say that every person in authority in this Island, this Court, the probation service, the police, the customs officers and indeed every citizen who is responsible and likes his Island, loves his Island, should not bend over backwards and bring their energies to stamping out the unlawful use and abuse of drugs.

In this case, the accused was caught bringing drugs into Jersey. He was described by Counsel as a simple courier. The English case of Lawson, (1987) 9 Cr. App. R (S) 52, makes it quite clear that that is not a reason for not imposing a prison sentence. He was less than frank with the police, and this Court has no doubt that he did it for money, having spent his savings and what he was able to earn in the prison within a very short time on drugs.

So far as other cases are concerned, they are there as a guide only and they are not legally binding although of course we agree with Mr. Robinson that this Court must be consistent, as far as it can possibly be, in sentencing. It is suggested that three and a half years should be reduced on compassionate grounds, in other words that this man can attribute his situation to his term in prison. A number of observations require to be made about that. It is inferred, and indeed it is almost said, in the probation report which has caused us some surprise, that in the prison a prisoner receives no guidance or counselling, in matters of this sort. That is just not the case. Each Wednesday a consultant psychiatrist attends at the prison. This is admittedly only a relatively recent arrangement, but nevertheless it is not fair to suggest that if a person goes to prison, any bad habits he has acquired there, when he comes out are an excuse for him not to be punished if he commits further offences. This Court does not adhere to that kind of principle in sentencing.

We take the view that the Crown is right; that you were arrested while importing a commercial quantity of a class A drug, a dangerous drug, with a view to disseminating it in Jersey. We have no doubt that the conclusions are right and proper. You are sentenced accordingly to three and a half years imprisonment and there is an order for forfeiture and destruction of the drugs.

Authorities

A.G. -v- Bouhsine (10th February, 1992) Jersey Unreported

A.G. -v- Hervey (7th October, 1988) Jersey Unreported

A.G. -v- Cappie & Hailwood (4th December, 1991) Jersey Unreported

A.G. -v- Cappie & Hailwood (20th January, 1992) Jersey Unreported, C. of A.

Dolgin (1988) 10 Cr.App. R. (S) 447

Oluwatoyin Lawson (1987) 9 Cr.App. R. (S) 52

A.G. -v- Clarkin & Pockett (3rd July, 1991) Jersey Unreported C. of A.