

**ROYAL COURT**  
**(Superior Number)**

158.

22nd November, 1993

**Before:** The Bailiff, and Jurats  
Vint, Blampied, Myles, Bonn,  
Orchard, Gruchy, Vibert, Herbert, and  
Rumfitt.

---

The Attorney General

-v-

Adrian Neil Bate

---

Sentencing, following guilty plea before the Inferior Number on 15th October, 1993 to:

1 count of            being knowingly concerned in the fraudulent evasion of the prohibition on importation of a controlled drug (cannabis resin: 10,003 grams with estimated street value £60,018), contrary to Article 77(b) of the Customs and Excise (General Provisions) (Jersey) Law, 1972.

**CONCLUSIONS:**    4½ years Imprisonment.

**SENTENCE:**            3½ years Imprisonment.

---

W.J. Bailhache, Esq., Crown Advocate.  
Advocate A.D. Hoy, Esq., for the Accused.

---

**JUDGMENT**

**THE BAILIFF:** The Court has had before it a request from the Crown to reconsider its sentencing policy in one particular respect. The argument for the Crown was that looking at the range of sentences set out in Aramah (1982) 4 Cr. App.R. (S) 407, and applied in Rawlinson (19th January 1993) Jersey Unreported C.of A. and in Stead (21st January 1993) Jersey Unreported it could be said that the importation of similar amounts of illegal drugs into Jersey and into England was more serious in Jersey because we are a smaller community. The Crown invited us to view similar amounts imported here as more serious by reason of the size of the Island's population and therefore of the greater impact on those liable to take the drugs.

We think there is much merit in that argument but we think it would be unfair to apply this principle in the present case without prior notice being given. And so I am now giving notice on behalf of the Full Court that, in future, we will adopt the yard stick suggested by the Crown in respect of the quantities imported here placing them in the medium to serious range rather than in the lower range.

However, we have to deal with Bate in accordance with our present sentencing policy. We have looked at Rawlinson and at the amount he was going to import, and the profit he was going to make, and then at all the circumstances of this case, not least that Bate was eventually co-operative and admitted that he knew there was some cannabis, or at any rate, an illegal drug in the petrol tank; that he eventually entered a guilty plea; that he is a first offender; and that his profit was small - although there is a caveat to be entered about this: the Court of Appeal of England pointed out very clearly in Aramah that the amount of profit is not necessarily a mitigating factor because people are used as mere carriers by dealers in the belief that, because of that, they would get a lesser sentence.

Under all the circumstances, we have come to the conclusion, applying the present scale and present policy - and I stress that - that the appropriate sentence is one of 3½ years and you are sentenced accordingly. I am to say, however, that that decision was by a majority. A number of the Jurats would have been in favour of three years. I am also to say that if we had been applying the new provisions, the Court would unanimously have imposed a sentence of 4½ years. The usual orders for the forfeiture and destruction of the drugs and the forfeiture of the car are ordered.

Authorities

A.G. -v- Stead (21st June 1993) Jersey Unreported.

Rawlinson -v- A.G. (19th January, 1993) Jersey Unreported.

Aramah (1982) 4 Cr.App. R(S) 407.