4 pages.

ROYAL COURT
(Samedi Division)

41.

21st February, 1994

Before: The Bailiff, and
Jurats Vint and Herbert

Police Court Appeal

Matthew Alan Rault

- v -

The Attorney General

Appeal against total sentence of 4 weeks' imprisonment passed on 14th December, 1993, following guilty pleas to:

3 charges of possession of a controlled drug, contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978.

Charge 1: L.S.D.: 4 weeks' imprisonment.
Charge 2: Amphetamine Sulphate: 1 week's imprisonment, concurrent.
Charge 3: Ecstasy: 2 weeks' imprisonment, concurrent.

Appeal allowed: sentence of 1 year's Probation with 70 hours community service substituted.

Advocate R.J.F. Pirie for the Accused.
S.C.K. Pallot, Esq., Crown Advocate.

JUDGMENT

THE BAILIFF: The Court repeats what has been said before that it is wrong in principle to sentence an offender under 21 to imprisonment unless there are exceptional circumstances which require the imposition of a custodial sentence. That was the principle set out in A.G. -v- Rowe (1985-86) J.L.R. N.26 and repeated in the case of A.G. -v- Ryan, Mesney (20th April, 1990) Jersey Unreported.

As against that the Court had occasion, in Rowland -v- A.G. (22nd April, 1992) Jersey Unreported, to refer to A.G. -v- Stratton and Ors. (22nd November, 1991) Jersey Unreported, where the Court said this:

"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,...." (and I would interpolate here: particularly well educated and intelligent young men and women) ***"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".***

In that case, the Court said that it did not seek to interfere with that principle but it also went on to say that it must take second place to the principle I have just mentioned about a first offender.

In this case, had the Magistrate had the Probation Report in front of him in September and eventually imposed a sentence of 4 weeks' imprisonment, this Court would not have interfered. The Court takes the view that the possession of a Class A drug is a very serious matter. But for the reasons advanced by counsel on your behalf today, there are a number of matters that we have felt able to take into account. First, there was some delay, though this was not excessive. Secondly, you yourself, Rault, sought help very quickly after you were detected. Thirdly, you have behaved yourself as regards drugs since then. Fourthly, the state of your health. Fifthly, the references which were written about you, even before you got into trouble.

Nevertheless we are not going to impose a sentence which is a "let off". Community service is an alternative to prison and if it is not served or if the probation order, of which it forms a part is not properly carried out, you will certainly come back to this Court for any breach and will run the risk on that occasion of going to prison.

The Court regards the possession of a Class A drug as very serious: in your case you were mixing it with other drugs and were spending a considerable amount of money: £30 - £40 a week on your habit. That clearly showed that some people were benefiting from your habit because you were buying these drugs quite freely and openly in St. Helier.

However, under the circumstances we are going to quash the sentence imposed and substitute a sentence of one year's probation on all three charges under the usual conditions; that is you will live and work as directed by your Probation Officer; you will be of good behaviour during that time and if you are in breach you will come up here for sentence in due course. In addition you

will serve 70 hours community service in respect of each offence, concurrent. Mr. Pirie, you shall have your legal aid costs.

Authorities

Rowland -v- A.G. (22nd April, 1992) Jersey Unreported.

A.G. -v- Ryan, Mesney (20th April, 1990) Jersey Unreported.

Jéhan -v- A.G. (14th August, 1989) Jersey Unreported.

A.G. -v- Rowe (1985-86) J.L.R. N.26.