

ROYAL COURT  
(Samedi Division)

227.

2nd December, 1996

Before: F.C. Hamon, Esq., Deputy Bailiff, and  
Jurats Myles, Bonn, Gruchy, Vibert, Herbert,  
Rumfitt, Potter, de Veulle, Querée

The Attorney General

- v -

Stewart Gordon Bain

Sentencing by the Superior Number of the Royal Court, to which the accused was remanded by the Inferior Number of 25th October, 1996, following a not guilty plea, entered on 12th July, 1996, trial *en police correctionnelle* and conviction on:

- 1 count of      being knowingly concerned in the fraudulent evasion of the prohibition on the importation of a controlled drug, contrary to Article 77(b) of the Customs and Excise (General Provisions) (Jersey) Law, 1972:  
Count 1 : cannabis resin.
- 1 count of      possession of a controlled drug with intent to supply, contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978:  
Count 2 : cannabis resin.

Age: 32

Details of Offence:

Bain was involved in a conspiracy to import 16.1 kilos of cannabis resin (street value £92,787) into Jersey. The cannabis was concealed in a wooden box secreted in a settee ordered from a shop in Glasgow for delivery to a Mr. Hudson whose address was given as Bain's address in Jersey. The settee was duly delivered to Bain's address where the wooden box was removed from the settee and the cannabis hidden in Bain's bathroom. It was found there on a police search the same evening. At his trial before the Inferior Number Bain alleged that he knew nothing of the hidden cannabis and that he had agreed to accept delivery of the settee as a favour for an acquaintance called Mr. Hudson. The Court disbelieved him and he was convicted.

Details of Mitigation:

No mitigation was available for a guilty plea but, although he had previous convictions, there was no previous drug offence. Bain contended in mitigation that he was not the ring-leader of the conspiracy.

Previous Convictions:

Previous convictions for dishonesty but no previous drug convictions.

Conclusions:

Count 1 : 7½ years' imprisonment.

Count 2 : 7½ years' imprisonment, concurrent.

Sentence and Observations of the Court:

Conclusions granted. The Crown had taken the correct starting point of eight years and had perhaps been generous in the discount allowed.

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The Attorney General.  
The Accused on his own behalf.

JUDGMENT

THE DEPUTY BAILIFF: It is not necessary for us to repeat the whole scenario which led to the discovery of the importation of 16 kilograms of cannabis hidden in a secret compartment of a settee purchased in Glasgow but delivered to Bain's address in Jersey.

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The evidence linked Bain with a man called Scobie, who has fled the jurisdiction. There may have been others involved. But essentially there is no doubt in the Court's mind that Bain was one of the prime movers in this importation. There was an attempt by Bain to shift the blame onto a man called Hudson. The name 'Hudson' is linked with the settee in its well documented journey from Glasgow to Dunfermline to Jersey. The settee was ordered in the name of Hudson, many telephone calls were received by Pickfords, the carriers in Jersey and Dunfermline, purportedly coming from this man Hudson but all traced to Bain's telephone number or Scobie's telephone number in Jersey.

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The arrival of the settee in Jersey effectively gives the lie to the fact that Mr. Hudson ever existed. Bain and Scobie were there when the settee was delivered into the bedroom of Bain's flat. The box of cannabis was clearly removed there and then and taken to the first floor of the property where the cannabis was removed and placed in two bags. Bain was identified at the property and later was seen moving the settee, the cannabis having been stored in a bathroom cupboard at Bain's address, into Scobie's flat in another part of town.

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As we said, analysing the evidence in more detail when we were dealing with the conviction, the Court has no doubt that, despite the ingenious attempts to cover the crime with an alibi again connected to Hudson, Bain was one of the instigators of this complex and carefully thought out conspiracy to import a very

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large amount of cannabis into Jersey. Bain, we have no doubt, was at the very heart of that conspiracy.

5 We turn to the case of Campbell, Molloy, MacKenzie -v- A.G. (4th April, 1995) Jersey Unreported CofA; (1995) JLR 136 CofA, where the Court of Appeal, in setting out its guidelines which we will not repeat here, said this:

10 *"Much will depend upon the amount and value of the drugs involved, the nature and scale of the activity and, of course, any other factors showing the degree to which the defendant was concerned in drug trafficking".*

15 The appropriate starting point set out by the Court of Appeal for a Class B drug of between ten to thirty kilograms is between six and ten years. The street value of this consignment we need to remind ourselves was £92,787. That is of peripheral importance; what is important is Bain's involvement and his criminal activity which was, in our view, very great. There was no plea of guilty and, indeed, no co-operation because of that. Indeed, Bain  
20 continues to maintain his innocence to the Probation Officer. His record is relatively minor and there is nothing related to drug offences in it.

25 Mr. Bain this morning has dismissed his advocate and given to us a carefully written and courteous statement, but the matters contained in that statement we feel perhaps can best be dealt with when he appears in the Court of Appeal. There is really nothing that helps us by way of mitigation.

30 We agree that eight years is an appropriate starting point and, as we have said, there is very little that can be taken by way of mitigation. He has no previous drugs conviction, all the same, we think in the circumstances the six months allowed by the  
35 learned Attorney is generous. Nevertheless we are prepared in the circumstances to follow the recommendations of the Crown. Stand up, Bain, please. You are sentenced to 7½ years' imprisonment and we order the forfeiture and destruction of the drugs.

Authorities

Campbell, Molloy, MacKenzie -v- A.G. (4th April, 1995) Jersey  
Unreported CofA; (1995) JLR 136 CofA.