

ROYAL COURT
(Samedi Division)

246.

20th December, 1996

Before: P.G. Blampied, Esq., OBE, Lieutenant Bailiff,
and Jurats Myles and Potter

The Attorney General

- v -

Mark André Such

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- | | |
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| 1 count of | taking a motor vehicle without the owner's consent or other lawful authority, contrary to Article 28 of the Road Traffic (Jersey) Law, 1956 (count 1). |
| 1 count of | using a motor vehicle uninsured against third party risks, contrary to Article 2(1) of the Motor Traffic (Third Party Insurance) (Jersey) Law, 1948 (count 2). |
| 1 count of | possession of a controlled drug, with Intent to supply it to another, contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978:
Count 3 (cannabis resin). |

Plea: Guilty.

Age: 21.

Details of Offence:

Defendant went for a drive in a car which had been taken and driven away by another person. The cannabis resin (6.27 ounces) was found in a jacket hanging in the wardrobe of Such's bedroom. Such stated that he had only purchased one ounce and that the remainder had been left in the jacket by the supplier by mistake. The street value of the cannabis was £1,003.

Details of Mitigation:

Such was at a crucial stage. He was attempting to turn the corner from his previous conduct. There were strong recommendations from the Probation Service, psychological report and others which supported this. Such was asking for a final chance to put his bad record behind him.

Previous Convictions:

Four previous Court appearances for drug offences including offences of supply and possession with Intent to supply LSD.

Conclusions:

Count 1 : 3 months' imprisonment

Count 2 : 3 months' imprisonment, concurrent; 2 years' disqualification from driving.

Count 3 : 15 months' imprisonment, consecutive.

TOTAL : 18 months' imprisonment, 2 years' disqualification from driving.

Sentence and Observations of the Court:

2 years' Probation; 2 years' disqualification from driving on count 2. There were exceptional circumstances. Such was only 21 and had an appalling record but all the reports had persuaded the Court that Such was ready to change his ways.

**The Attorney General.
Advocate R.G. Morris for the accused.**

JUDGMENT

THE LIEUTENANT BAILIFF: We have given anxious consideration to this case. The police identified fingerprints on a Ford 'Fiesta' hire car which had been taken from its owners. Such is, unfortunately, well-known to the police and the fingerprints enabled them to identify him as the person who had removed the car.

There followed a search of his flat where 6.27 ounces of cannabis resin were found. So far, it can be said that the circumstances of the indictment brought against Such were not very different from those of young people who suffer and cause suffering by being involved in the drugs scene. However, there are two factors which the Court consider to be unusual and possibly very unusual in this case. Such is only 21 years old and has an appalling record. He first came before the Juvenile Court in 1991 for the possession of cannabis resin when he was only 16 and since then has been before the Court regularly for drug offences and has been in prison on four occasions, notably for 2½ years in 1994.

For the whole of his young life, Such has offended against society and damaged himself. It is particularly sad for one so young. This is the first factor which we regard as exceptional. The second is this and it is based on comments contained in the reports of Mr. Hollywood the Consultant Psychologist, Mrs. Adcock, the Probation Officer, Elaine Goldie-Smith, of the Community Drugs Service and of Such's employer, Mr. Richomme of the Public Services Department. These reports have persuaded us that Such seeks to change and I am going to read a brief extract of the sort of comment which the Court has been considering. The first brief extract comes from the report of the Consultant Psychologist, Mr. Hollywood:

5 "Such has therefore had a period of some six years - of
which thirty two months were spent in prison - of
unremitting and fairly prolific drug use. With such a
history the prognosis would normally be very gloomy.
10 However there are very definite signs in Such's demeanour,
attitudes, behaviour and performance in a work setting
which give more than a glimmer of hope that he has reached
a critical stage in his drug use history. There is good
evidence from a variety of reliable sources that Such is
making Herculean efforts".

Then from Elaine Goldie-Smith of the Community Drug Team:

15 "I feel more optimistic about Mark's future now that he is
has had the maturity to address some of the
responsibilities of adulthood and attempted to change his
lifestyle significantly".

20 Such is in employment at the moment and the manager of
building maintenance, Mr. Richomme of the Public Services
Department, writes that he believes that Such will eventually be
well placed to seek useful employment in today's job market.

25 We are therefore going to adopt the recommendation of the
Probation Department. I have not read extracts from that report
but it was prepared independently and without knowledge of the
Consultant's report but it endorses all that those other reports
say.

30 Such, you are in the very unusual position of being given a
chance and we urge you to take hold of it. Accordingly, we place
you on Probation for two years. You know what that means because
you have been on Probation before and we urge you to take this
opportunity which has been given to you. It will place demands on
35 your time outside the working week. You will attend the SMART
programme for serious offenders and you are also expected to
maintain contact with the Drug and Alcohol Abuse Service.

40 So far as the motoring offences are concerned you are
disqualified from driving for two years. We order the forfeiture
and destruction of the drugs.

Authorities

Campbell, Molloy, MacKenzie -v- AG (1995) JLR 136 CofA.

AG -v- Cook (24th November, 1995) Jersey Unreported.

AG -v- Thomas (8th March, 1996) Jersey Unreported.