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ROYAL COURT
(Poursuites Criminelles)

9th June, 1989

Before: The Deputy Bailiff and
Jurats Coutanche and Vint

The Attorney General

- v -

Duncan Stewart Bagan

Guilty plea to: making false
statement to obtain driving licence
(Art. 11(2) of the Road Traffic (Jersey)
Law 1956) (2 counts); using driving
licence with intent to deceive
(Art. 11(1) of Road Traffic (Jersey) Law, 1956)
(1 count); making false statement to obtain
motor vehicle licence (Art. 4 of
Motor Vehicle Duty (Jersey) Law,
1957) (1 count); using motor vehicle
uninsured against third party risks
(Art. 2(1) of Motor Traffic (Third
Party Insurance) (Jersey) Law, 1948
(1 count); possession of controlled drug
(Art. 6(1) of Misuse of Drugs (Jersey) Law,
1978 (2 counts).

The Attorney General for the Crown
Advocate C.J. Scholefield for the accused.

JUDGMENT

DEPUTY BAILIFF: The Court has no hesitation in rejecting the ingenious submission of defence counsel in its entirety.

In the opinion of the Court possession of drugs inside the prison does aggravate the offence. Prisoners well know what they are allowed to have in their cells and prison discipline is very important. The availability of drugs in prison can easily lead to such undesirable activities as extortion and coercion.

We have no doubt that Bagan well knew what it was that he took into his possession. He has failed to identify Mr. X and in those circumstances must face the consequences. The innocent courier does not escape a prison sentence because those involved in drugs will deliberately use a naive, innocent person in the hope of avoiding detection. Mr. X used Bagan but Bagan seeks to protect him. That calls for a severe deterrent sentence in the public interest. In any event Bagan was not naive, he is street-wise and well knew the risk he was taking.

The duration of possession is irrelevant. A person arrested by the police immediately after acquiring drugs cannot mitigate his offences on the grounds that he has been caught too soon.

This Court is following the principles laid down by the Superior Number and where Class A drugs are involved there will be a long custodial sentence.

Therefore the conclusions are granted and Bagan you are sentenced as follows: on count 1, to a fine of £50 or in default of payment one month's imprisonment; on count 2, to a fine of £50 or in default of payment one month's imprisonment concurrent; on count 3, you are sentenced to

imprisonment of three months to run concurrently; on count 4, three months' imprisonment also concurrent; on count 5, two months' imprisonment also concurrent. On counts 6 and 7, the two drugs offences, you are sentenced on count 6 to three months' imprisonment; and on count 7 to twelve months' imprisonment; those two counts to run concurrently with each other but consecutive to the previous five counts, thus making a total sentence of fifteen months' imprisonment. We order the forfeiture and destruction of the drugs.

Authorities

Thomas "Principles of Sentencing": pp. 2518/9 & 10.

R. -v- Omashebi (1981) 3 Cr. App. R.(S) 271.

R. -v- Diamond (1985) 7 Cr. App. R.(S) 152.

R. -v- Layton (1988) 10 Cr. App. R.(S) 109.