

ROYAL COURT
Samedi Division

8th December, 1989

Before: The Deputy Bailiff and
Jurats Vint and Gruchy

Attorney General

- v -

Kenneth Edward George Quenault

Supplying a controlled drug, contrary to
Article 5 of the Misuse of Drugs (Jersey)
Law, 1978

The Solicitor General for the Crown
Advocate C.J. Dorey for the accused.

JUDGMENT

THE DEPUTY BAILIFF: We commence by commenting on the question of the prescribing of substantial quantities of diconal.

We have spent some time examining the various records submitted to us. We regret to say that the statements contained in Dr. Leadbeater's report of the 3rd July fall short of showing the full picture. He claimed that Quenault had been prescribed a total dosage of 100 tablets per month, or approximately three tablets per day, and that an overall careful note had been made of all prescriptions. That cannot be so because the calendar year

total for 1987 is 1,540 tablets, that is to say 4 per day plus 80 and for 1988, 1,550 tablets, that is to say 4 per day plus 90.

We have no doubt that Dr. Leadbeater acted throughout in good faith. As the Solicitor General readily acknowledged, Quenault received a great deal of supportive care, medication and referrals for opinions and treatment. A doctor/patient relationship was built up over the years and the doctor came to trust him. Unfortunately that trust was misplaced. The doctor believed that Quenault suffered very great pain - he was acting with the honest intention of relieving that pain. Unfortunately his patient was practising a gross deception and could manage with very much less relief.

Having said that we must say that there was a marked degree of carelessness in the prescribing of diconal by Dr. Leadbeater and one of his partners - to such a degree that we feel able to say without being unfair that there was irresponsible prescribing of diconal over a long period.

We agree with the Solicitor General that one hopes that exposure of the facts of this case to the public gaze will fully bring home to those concerned, the possible results and grave dangers of over-prescribing of controlled drugs.

We support the Medical Officer of Health in his views. In our opinion members of the medical profession are under a duty to co-operate with him. They have a further duty not to take patients on trust.

We do not feel qualified to comment on the solution suggested by the Solicitor General whereby doctors should only prescribe drugs regularly to the same patient after consultation with the Medical Officer of Health and that in the event of conflict of medical opinion there should be joint referral to a suitable consultant. We would expect the Medical Officer of Health to try to persuade the Jersey Medical Society to adopt a code of conduct, or if that fails we would expect the Medical Officer of Health to enter into discussions with the Public Health Committee with a view to restrictions being imposed, if necessary by legislation.

Turning to sentence, we adopt as absolutely in point the two cases cited of A.G. -v- Hilton Sidney and A.G. -v- Lalley. Quenault is fortunate because he fully deserves a long custodial sentence. We are not changing the sentencing principles of this Court. We are applying an exceptional sentence to wholly exceptional circumstances. Whatever the pressure, whatever the other mitigating factors this was an appalling story of drug trafficking over a long period. Fortunately the Confiscation Order we have made ensures that there has been no gain from it. We are satisfied that Quenault's health is such that he could not cope with a sentence of imprisonment. Therefore, on health grounds alone we grant the conclusions. Quenault, you are placed on probation for a period of three years on condition that you will be of good behaviour throughout that time and that you will live and work, if appropriate, where directed by your Probation Officer.