

5 pages.

ROYAL COURT

7th July, 1992

119.

F.C. Hamon, Esq., Commissioner, and  
Jurats Coutanche and Hamon

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H.M. Attorney General

- v -

Christian Marcus Ward

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1 Count of importation of a controlled drug,  
contrary to Article 23 of the Customs and Excise  
(General Provisions) (Jersey) Law, 1972 (Count 1);  
and  
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 2).

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AGE: 19.

PLEA:

Guilty.

**DETAILS OF OFFENCE:**

Ward went to Paris, bought 162.95 gr. cannabis resin for £250, swallowed it and returned to Jersey by sea. Initially unco-operative, later co-operated. Claimed cannabis mainly for own use but would have sold some to friends. Local value £978.00.

**DETAILS OF MITIGATION:**

Holidaying abroad previous year met and came under influence of a fellow Jerseyman. Converted to Rastafarianism and smoking of cannabis. Effect of arrest salutary. Gave up Rastafarianism and now a committed Christian. Also now in gainful employment and working hard.

**PREVIOUS CONVICTIONS:**

Minor for motoring. None for drugs.

**CONCLUSIONS:**

- (1) (Importation) 6 months.
- (2) (Possession with intent) 6 months concurrent.  
Drugs forfeited and destroyed.

**SENTENCE AND OBSERVATIONS OF THE COURT:**

Supply, even to friends, is trafficking.

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**Miss S.C. Nicolle, Crown Advocate.**

**Advocate Miss D. Cubitt-Sowden for the accused.**

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**JUDGMENT**

**THE COMMISSIONER:** On the 11th March, 1992, at the Harbour Office of the Jersey Customs, the accused was stopped by a Customs Officer. He had come from St. Malo. He was in the green channel. Eventually he passed through his body 53 pieces of cannabis resin wrapped in cling film.

It appears that he had not only been advised how to divide, wrap and swallow the resin, but to drink milk beforehand to protect his digestive system. He had in all 162.95 grams. This was apparently sufficient for a year's personal supply.

Ward admitted that this was not all for his own use, but that he would have shared some of it and sold some of it to his friends. Now that is trafficking. We do not know what profit he would have made, it seems that the risks he took were enormous for what was said to be his own supply, and in his words, is a form of altruism.

We must recall that he had been unemployed since the end of 1991 and was drawing £40 per week from Parish Welfare. We must also recall that the Probation Report says that Ward set off in March of this year to France to purchase the cannabis. The street value of the drugs - whatever that may mean - is apparently £978 and he had apparently purchased them for £250.

Miss Sowden referred us to three cases and in the first of those, although the second in time, the case of AG -v- Lappin (30th August, 1991) Jersey Unreported, the learned Bailiff said:

*"There is no need for the Court to stress, as it has on many other occasions, the principle that unless there are exceptional circumstances people who import illegal drugs into this Island, particularly for gain and as a commercial venture which this undoubtedly was, must expect a prison sentence".*

And in Scott -v- AG (17th September, 1991) Jersey Unreported, the learned Deputy Bailiff said this:

*"The policy of this Court has been very clearly stated on numerous occasions. Any importation of even a Class B drug should be met by a custodial sentence unless there are exceptional circumstances. Any second or subsequent conviction for simple possession of even a Class B drug should likewise be met by a custodial sentence unless there are exceptional circumstances".*

Miss Sowden attempted to distinguish these cases and referred us in particular to the case of AG -v- Diamond (22nd July, 1991) Jersey Unreported, which predated the two earlier cases which I have cited, where the learned Deputy Bailiff said:

**"The Court accepts the principle, reiterated in the Ryan and Mesney case that it is wrong in principle to sentence an offender under 21 to imprisonment unless there are exceptional circumstances which really require the imposition of a custodial sentence. This Court has no hesitation in saying that drug trafficking is an exceptional circumstance which does require the imposition of a custodial sentence on a young man of 20 years".**

Miss Sowden has said everything that can be said and she has tried with some skill to show us the exceptions in this case. However we look at the exceptions - and each case must be judged on its facts - and despite the fact that the accused is only 19, we cannot see any reason to depart from the conclusions of the Crown Advocate, nor from the strictures laid down time and time again by this Court.

We say that even though we note that the accused is in gainful employment and that he has a reference from the Leonis Boxing Club.

It is a tragedy, but then all cases of this kind are tragic, and we can see no alternative in the circumstances other than to follow the conclusions of the learned Crown Advocate and sentence you to 6 months' imprisonment on each count, concurrent, and we order the forfeiture and destruction of the drugs. Miss Sowden shall have her legal aid costs.

**Authorities**

AG -v- Diamond (22nd July, 1991) Jersey Unreported.

AG -v- Lappin (30th August, 1991) Jersey Unreported.

Scott -v- AG (17th September, 1991) Jersey Unreported.