

**ROYAL COURT**  
(Superior Number) 146.

10th August, 1992

**Before: The Bailiff, and Jurats Vint, Coutanche, Myles,  
Orchard, Gruchy, Hamon, Le Ruez and Rumfitt**

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**Her Majesty's Attorney General**

-v-

**Mark Sharif Siham**

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Sentencing, following guilty plea to:

- 1 Count of            Supplying a controlled drug, contrary to Article 5 of the Misuse of Drugs (Jersey) Law, 1978. (Count 1 of the indictment laid against him).
  - 1 Count of            Possessing 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)
  - 1 Count of            Possessing a controlled drug, contrary to Article 6 (1) of the Misuse of Drugs (Jersey) Law, 1978. (Count 3); and
  - 1 Count of            Possessing utensils for the purpose of committing an offence, contrary to Article 8 of the Misuse of Drugs (Jersey) Law, 1978. (Count 4)
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**AGE: 19**

**PLEA: Guilty**

**DETAILS OF OFFENCE:**

Arrested outside "Furland" for public order offence. When searched found to be carrying 46 LSD trips and £92 in cash. Admitted having purchased 50 LSD trips, and having sold 4 @ £7 each, intended to sell the remainder. When Siham's house was searched, Police Officers found cannabis resin, bottles for smoking cannabis resin and a wooden pipe used for the same purpose.

**DETAILS OF MITIGATION:**

Youth. Following dispute with parents, left home and lived with friends. Owed money, so sold drugs in an effort to repay this money. Aware of stupidity of his actions.

**PREVIOUS CONVICTIONS:**

1 for drugs.

**CONCLUSIONS:**

COUNT 1 - 3 years; COUNT 2 - 3 Years; COUNT 3 - 4 months, COUNT 4 - 4 months; all concurrent

**SENTENCING AND OBSERVATIONS  
OF THE COURT:**

Nothing exceptional to entitle Court to depart from conclusions. One previous conviction for cannabls and Prison had not worked. Instead he had stepped up involvement in drugs, and bought LSD to sell it on. Not a large commercial dealer, but nevertheless dealing in drugs for a profit. Minority felt that age made sentencing difficult, Court nevertheless decided prison sentence applicable. Three choices - (1) 6 months - patently too little; (2) borstal - not satisfactory; (3) grant conclusions. Conclusions granted. Court had often said that legislation should be changed with regard to young offenders, but has to act in accordance with statutes and principles.

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**Miss S.C.N. Nicolle Crown Advocate  
Advocate P.C. Harris for accused**

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**JUDGMENT**

**BAILIFF:** This case has caused some difficulties. The Court considered whether there were special circumstances which would entitle it to depart from the very clear principles which have been upheld recently by the Court of Appeal in Schollhammer and Reissing (14th July, 1992) Jersey Unreported C. of A. We searched carefully and earnestly into the previous history of the accused to see whether there was something which could account for his actions. We came to the conclusion that there was nothing exceptional in his circumstances. He had a good home where he was looked after, he had caring parents and he had a job. More than that he had one previous conviction for dealing with cannabis.

Counsel said that he had gone to prison and it had not worked. That was apparent from his further involvement with drugs. However, he stepped up his involvement by adding L.S.D

to cannabis, partly for his own use but partly for sale as well. We think that it is only the fact of his arrest by the Police that prevented him from disposing of all the trips.

We accept, as Mr. Harris has said, that this is not a case of a large commercial dealer, but nevertheless he was dealing in drugs for profit. That being so, the Court has to be certain that there are sufficient factors to entitle it to depart from its well established principle of sentencing.

The age of the accused disturbed all members of the Court; a minority felt that this made it difficult for them to agree to a sentence as long as three years, and I am able to understand their hesitation. The Court had first to decide whether a prison sentence was warranted or not, and we were quite clear that a prison sentence had to be imposed. The Court was then faced with three choices: it could impose a sentence of six months, under the provisions of Childrens' (Jersey) Law, 1969, - that was patently too little; it could impose, as was suggested by Counsel, a sentence of borstal training, which of course is not that anymore, but that might well result in a very early release for the accused - which again would not be satisfactory; or it could grant the conclusions.

The Court has said on many occasions that it hopes that the legislation will be changed so as to remove the fetters on a sentencing Court when dealing with persons of this age involved in serious offences, which this certainly is. The Court has to act, however, in accordance with statute and in accordance with its sentencing principles.

By a majority, the Court decided that the conclusions should be granted and they are therefore granted and so you are sentenced on Count 1 to 3 years, on Count 2 to 3 years, on Count 3 to 4 months, and on Count 4 to 4 months imprisonment, all

concurrent. There will be an Order for forfeiture and destruction of the utensils and the drugs.

**Authorities**

Schollhammer & Reissing -v- Att. Gen. (14th July, 1992) Jersey  
Unreported, C.of.A.

Thomas: Principles of Sentencing (2nd Ed'n): p.18.