

**ROYAL COURT**  
**(Samedi Division)**

93.

13th May, 1994

**Before: The Deputy Bailiff, and**  
**Jurats Coutanche and Le Ruez**

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**The Attorney General**

- v -

**Perry James Quirke**

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**1 count of** being knowingly concerned in the fraudulent evasion of the prohibition on importation of a controlled drug (Methadone Hydrochloride), contrary to Article 77(b) of the Customs and Excise (General Provisions) (Jersey) Law, 1972. (Count 1 of the indictment).

**1 count of** possession of a controlled drug (Methadone Hydrochloride), contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978. (Count 2 of the indictment).

**AGE:** 25.

**PLEA:** Guilty.

**DETAILS OF OFFENCE:**

Brought 142 ml of Methadone Hydrochloride (Class A drug) into airport. Street value £30. Initial deception but thereafter co-operative with police. Pleaded guilty throughout. Heroin addict.

**DETAILS OF MITIGATION:**

Some residual mitigation for youth. Full account taken for guilty plea. Submitted that not an abuser of drugs, but a user; i.e. had attempted to use Methadone to wean himself off heroin. Hardworking and "clean" since arrived here. Had surrendered to bail.

**PREVIOUS CONVICTIONS:**

Several. Larceny; motoring. (Larceny committed to finance heroin addiction). Jan 1993 - 2 years and 3 months in Ireland for supplying Class A drugs. Released on licence 4th February, 1994, and came to Jersey that very day.

**CONCLUSIONS:** Count 1: 18 months' imprisonment.  
Count 2: 9 months' imprisonment, concurrent.

**SENTENCE:** Count 1: 12 months' imprisonment.  
Count 2: 6 months' imprisonment (concurrent).

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**A.J. Olsen, Esq., Crown Advocate.**  
**Advocate R.G. Morris for the accused.**

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**JUDGMENT**

**THE DEPUTY BAILIFF:** The Court has said on many occasions, and it has been rightly emphasised by the Crown Advocate, that the importation of drugs into Jersey is a serious matter and the importation of Class A drugs is particularly serious. There is no question, in the view of the Court, but that a custodial sentence must be imposed, and the only question is the length.

The Crown Advocate referred us to a number of cases, but we do not propose to analyse those cases in detail, because they are no more than guidance to the Court as to the appropriate level of sentence which is appropriate in this case. They are not precedents in the sense that they are binding on the Court because each case has its individual circumstances and flavour.

It was put to us by counsel for the accused that it was in some way a less serious offence to import Methadone rather than heroin or cocaine. The Court rejects the argument that there is any marked distinction to be drawn between different types of Class A drug. The legislature makes no such distinction and we have been told that the maximum penalty for the importation of any Class A drug is 14 years' imprisonment.

However we must, in our judgment, try to place this case at the appropriate level in the scale of different offences of importing Class A drugs. It is accepted that the amount of Methadone imported was relatively small - some 142 millilitres which Quirke had bought for £30. It was submitted, and we accept, that Quirke imported the drug as a means of continuing the process of weaning himself off his addiction to heroin.

We think that there is a distinction to be drawn between cases of importation where the drug is purely for illegal use by a defendant and cases where the defendant - albeit illegally - imports drugs for prophylactic purposes.

We have also taken account of the mitigating factors in this case; Quirke is a young man aged 25 and he co-operated with the

investigating officers fully, once the offence had been discovered. He has pleaded guilty to the indictment. We also note his good employment record in Jersey in 1990 and 1991 and in particular his participation in the 'Swimarathon' at that time for charitable purposes. Since being granted bail by the Magistrate in respect of this offence, we have also been told that he has worked well.

Although it is not a mitigating factor, we also take account of the fact that Quirke is wanted by the Irish Authorities for breach of reporting conditions and that a warrant is likely to be issued in respect of that offence.

We feel able to give greater weight to all those factors than was, perhaps, allowed by the Crown.

Quirke, the Court considers that you knew very well that the importation of drugs into Jersey was wrong and it is only because of the factors to which I have just referred that the Court is prepared to reduce the conclusions asked for by the Crown Advocate.

You said to the Magistrate, quite rightly, that you have caused distress to your family and the Court hopes that you will, during the period that you will spend in custody, determine to rid yourself of this evil habit, which has brought unhappiness, not only to you, but also to your family.

The Court therefore sentences you, on count 1, to 12 months' imprisonment; and on count 2, to 6 months' imprisonment, concurrent, making a total of 12 months' imprisonment, and the Court orders the forfeiture and destruction of the drugs.

Authorities

A.G. -v- Hervey (7th October, 1988) Jersey Unreported.

A.G. -v- Peacock (10th February, 1989) Jersey Unreported.

A.G. -v- Pringle (12th July, 1993) Jersey Unreported.