

ROYAL COURT
(Samedi Division)

248.

15th December, 1994

Before: The Bailiff, and Jurats
Coutanche, Blampied, Bonn, Orchard,
Hamon, Gruchy and Rumfitt

The Attorney General

- v -

David William Martin

Sentencing by the Superior Number, to which the accused was remanded on 25th November, 1994, by the Inferior Number, following guilty pleas to:

- 1 count of supplying a controlled drug, (LSD) contrary to Article 5(b) of the Misuse of Drugs (Jersey) Law, 1978, (count 1 of the indictment);
- 1 count of possession of a controlled drug (LSD) with intent to supply, contrary to Article 6(2) of the said Law, (count 2);
- 2 counts of possession of a controlled drug, (MDMA) contrary to Article 6(1) of the said Law, (counts 3 & 4).

AGE: 24.

PLEA: Guilty.

DETAILS OF OFFENCE:

Detained in Bath Street and found to have on him 95 tabs of LSD and 4½ tablets of MDMA. A search at his place of residence revealed further tablet of MDMA. He admitted having sold 5 LSD tabs shortly before his arrest and stated that his intention was to sell the remaining 95 at a Rave. The total street value of the drugs found in his possession was between £600 and £790 and Martin stood to make £250 profit had he been able to sell all of the LSD tabs.

DETAILS OF MITIGATION:

Plea of guilty. Remorse. Was not close to main source of supply. Intended selling the drugs in order to raise money to travel to England to look after his two daughters whilst his ex-girlfriend was travelling abroad on holiday.

PREVIOUS CONVICTIONS:

Six previous convictions of which one was a conviction two weeks before the present offences were committed for possession of cannabis in respect of which he was bound over for six months.

CONCLUSIONS:

count 1 : 4 years' imprisonment
count 2 : 4 years' imprisonment
count 3 : 9 months' imprisonment
count 4 : 9 months' imprisonment, all concurrent.

SENTENCE OF THE COURT:

Conclusions granted.

A.R. Binnington, Esq., Crown Advocate.
Advocate S. Sharpe for the Accused.

JUDGMENT

5 THE BAILIFF: Martin, you were convicted of possessing cannabis on
10th June, 1994, and bound over; in fact, you were already in
breach of an earlier binding over order as a result of this
offence, but we are not concerned with that. However, in a matter
of three weeks or so after that binding over order was made, you
promptly set about using and agreeing to distribute a very
dangerous drug to young people in this Island with total disregard
to the fact that you were bound over and had just committed a drug
related offence.

10 The Court is quite satisfied that the starting point for
cases of this nature (in your case) is in fact six years and that
the Crown has more than taken into account sufficient mitigation
in the circumstances of this particular offence. But I have to
15 say that three of the Jurats were prepared to reduce the
conclusions to 3½ years' imprisonment; the remaining four upheld
the conclusions of the Crown.

20 The Court had regard to the two cases cited by your counsel,
but the majority were of the opinion that the case of A.G. -v-
Neild (26th May, 1993) Jersey Unreported, could be distinguished
because in that case Neild had merely been keeping the drugs for a
dealer and there was a measure of intimidation which is not
25 present in your case. Accordingly, I repeat, by a majority, you
are sentenced to 4 years' imprisonment on counts 1 and 2
concurrent; and on counts 3 and 4 to 9 months' imprisonment,

concurrent. Although you have not asked for it, Mr. Binnington, there will be an order for the forfeiture and destruction of the drugs.

Authorities

Clarkin, Pockett -v- A.G. (1991) JLR 213 C.of.A.

A.G. -v- Johnson (26th October, 1992) Jersey Unreported.

A.G. -v- Wall (16th August, 1993) Jersey Unreported.

A.G. -v- Neild (26th May, 1993) Jersey Unreported.

Neild-v-A.G. (28th September, 1994) Jersey Unreported CofA.