

ROYAL COURT
(Samedi Division)

29th July, 1996

142.

Before: F.C. Hamon, Esq., Deputy Bailiff, and Jurats
Blampied, Myles, Gruchy, Le Ruez, Rumfitt,
Potter, de Veuille, Jones and Quérée.

The Attorney General

- v -

Victor Michael Akehurst

Sentencing by the Superior Number of the Royal Court, to which the accused was remanded by the Inferior Number on 19th July, 1996, following guilty pleas to:

- 1 count of being knowingly concerned in the fraudulent evasion of a prohibition on the importation of a controlled drug (Diamorphine) contrary to Article 77(b) of the Customs and Excise (General Provisions) (Jersey) Law, 1972 (count 1); and
- 1 count of possession of a controlled drug (Diamorphine) with intent to supply, contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978.

Age: 36.

Details of Offence:

The defendant was employed as a courier for a fee of £500 to import 26.48 grammes of heroin (purity 74%) which he carried in his raincoat. Unusual factor was that whilst on remand he witnessed a serious assault in prison and gave an immediate witness statement which enabled evidence to be gathered. He thereby put himself at risk of injury or worse.

Details of Mitigation:

Plea of guilty after initial denials. Not a sophisticated effort. He used his own name and did not hide the drugs. He was entitled to a substantial discount for the assistance which he had given notwithstanding that this was in connection with an unrelated offence, i.e. the assault.

Previous Convictions: Numerous. No previous drug convictions.

Conclusions:

Starting point nine years. Normal sentence six years but in light of assistance given on the assault and other available mitigation:

Count 1 : 3 years' imprisonment.

Count 2 : 3 years' imprisonment, concurrent.

Sentence and Observations of the Court:

Conclusions granted. Starting point and sentence which would otherwise have been passed were correct but assistance given enabled sentence to be reduced to three years. Court initially concerned that the assistance did not relate to the particular offence but applied the principle set out in R. -v- Sivan to the effect that credit could be given.

The Attorney General.
Advocate S.E. Fitz for the accused.

JUDGMENT

5 **THE DEPUTY BAILIFF:** Akehurst has now admitted that he was a courier for a fee of £500 at a time when he had just suffered a broken back and had little financial or personal support on which to rely. He has no previous drug convictions but this was a substantial haul which had it not been intercepted - the drug involved was heroin - could have led to untold misery or death.

10 The starting point of nine years is undoubtedly correct and this could, in the usual run of circumstances, perhaps have been reduced to six years. However, there is an interesting intervention by the learned Attorney. Recently there was a serious assault at the Prison. Akehurst gave information which has led to the gathering of certain useful information and to a prosecution. Because of this and of other available mitigation, 15 the learned Attorney has reduced his conclusions very substantially.

20 We have already remarked in this Court that those who give valuable information to the police can expect substantial reductions in their sentence. We were only concerned that the offences with which assistance was given were different to those with which Akehurst is charged and we are greatly helped by the words of Lord Lane CJ in R. -v- Sivan & Ors [1988] 10 Cr.App.R.(S) 282 at 283 where the Court said this:

25 *"If the object of the procedure is to benefit the public by encouraging the defendant to give information, it matters not whether the information relates to the offence under investigation or some other entirely different criminal activity".*

30

Stand up, please, Akehurst. On these two charges you are sentenced to three years' imprisonment concurrent and we order the forfeiture and destruction of the drugs.

Authorities

Campbell, Molloy and MacKenzie -v- A.G. (4th April, 1995) Jersey
Unreported CofA.

A.G. -v- Jones, Rayner (6th June, 1996) Jersey Unreported.

R. -v- Sivan & Ors. [1988] 10 Cr.App.R.(S) 282.