

ROYAL COURT
(Samedi Division) 183

Before: Sir Philip Bailhache, Bailiff, and Jurats
Gruchy and Potter

26th September, 1997

The Attorney General

- v -

Martyn Clark

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

Plea: Guilty.

Age: 40.

Details of Offence:

Clark was arrested at the airport with 5 ozs. cannabis secreted on his person. When interviewed he admitted this and gave as an explanation the fact that he had brought the cannabis into Jersey to "plant" it on his uncle who had sexually abused Clark when he was young. The events took place on Saturday, 21st June, 1997.

Details of Mitigation:

Defence counsel on instructions advised the Court that his client accepted the inevitability of a custodial sentence. The accused accepted that he should have contacted the police and not sought revenge in the manner which he did. In the circumstances the conclusions moved for by the Crown were not disputed.

Previous Convictions:

Various offences of dishonesty and motoring offences between 1975 and 1986. Nothing since then and no previous drug offences.

Conclusions:

12 months' imprisonment.

Sentence and Observations of the Court:

9 months' imprisonment. The Court agreed that importation was a serious matter but was concerned to ensure that the offence was regarded at the proper level of seriousness. The most important point was quantity which in this instance amounted to some 140 grams. The Court considered, therefore, that the proper starting point was 12 months (the prosecution had suggested 18 months as a proper starting point). The Court accepted that Clark had been caught red-handed and his guilty plea would not attract the full level of credit but the Court noted that he had co-operated and it was eleven years since he had offended.

J.G.P. Wheeler, Esq., Crown Advocate.
Advocate A. Messervy for the accused.

JUDGMENT

THE BAILIFF: The Court agrees with the Crown Advocate that the importation of drugs, even Class B drugs, is a serious matter and must attract a custodial sentence.

5 Nevertheless, the Court is concerned to ensure that the offence
should be put at its proper place on the scale of seriousness, and the
most important factor in relation to the importation of Class B drugs is
probably the quantity of drugs concerned. In this case the accused
10 imported 140 grams of cannabis resin and, in our judgment, the proper
starting point, in a case of this nature, is twelve months' imprisonment.
We have taken into consideration the fact that Clark was caught red-handed
and therefore the plea of guilty might not attract the level of mitigation
which would otherwise be the case. He was, however, co-operative with the
15 authorities, pleaded guilty to the offence, and is entitled to be given credit
for the fact that for the last eleven years he has not been convicted of any offence.

 Stand up, Clark, please. On the single count on the indictment, we
20 sentence you to nine months' imprisonment. We further order the forfeiture
and destruction of the drugs.

Authorities

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey":
pp.5-7 and 10-17.