

ROYAL COURT

206

11th December, 1989

Before: Commissioner P.R. Le Cras, and
Jurats Coutanche and Gruchy

Police Court Appeal: Paul Anthony Breese

Appeal against a sentence of three weeks' imprisonment imposed following a conviction on one count of possession of a controlled drug (namely cannabis resin) contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978.

Advocate M. St. J. Birt for the Crown
Advocate A.D. Robinson for the appellant.

JUDGMENT

COMMISSIONER LE CRAS: This is an appeal against a sentence of three weeks' imprisonment imposed by the learned Magistrate. This is a first offence for drugs and we note that the amount of cannabis was small and destined for personal use. We note further that despite a deplorable past record that the appellant has made an effort to pull himself together and is in work. The Crown has not sought to maintain the prison sentence, but counsel for the Crown has made certain submissions which we feel entirely able to endorse. Referring to the appeal by Rogers (13th November, 1989) Jersey Unreported,

he quoted the words of the learned Bailiff who said: "It is not incumbent upon the Magistrate to announce a change of policy. If circumstances require it, the Magistrates are entitled - if there is an increase in importing drugs into this Island - as soon as it occurs to consider whether their existing sentencing policy is adequate to deter people. If it is not they are entitled to increase it as and when they wish". We entirely endorse those words and agree with learned counsel for the Crown that if he believes there is an increase in the prevalence of an offence, it is entirely open to the learned Magistrate to increase the standard punishment.

In all the circumstances of this case we will substitute a fine of £250 in place of the three weeks' imprisonment. You will have two weeks to pay this fine and if you do not pay it within the two weeks, you will go to prison for three weeks. You have been given your chance, you seem to have made some effort recently and we take that into account. You know the penalties and you must make the most of the opportunity which is given to you, because if you come again before the Courts for this offence, you know what will happen.

Mr. Birt, you will receive your legal aid costs.

Authorities referred to:-

Thomas' Principles of Sentencing (2nd edition) at pp. 178, 179 and 180.

Thomas' Current Sentencing Practice - B11-1.3 the case of R. -v- Aldred
(1983) 5 Cr. App. R. (S) 393.

Police Court Appeal: Rogers (13th November, 1989) Jersey Unreported.