

ROYAL COURT
(Samedi Division)

24.

8th February, 1991

Before: The Bailiff, and Jurats
Vint and Herbert

The Attorney General

- v -

Roger Junior Hatte

Review of Probation Order, imposed on 1st February, 1990, following guilty plea to 1 Count of importation of a controlled drug, contrary to Article 23 of the Customs and Excise (General Provisions) (Jersey) Law, 1972; and to 1 Count of possession of a controlled drug, with intent to supply, contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978.

PLEA: Guilty.

DETAILS OF OFFENCE: 240 hours Community Service originally imposed. Hatte had failed to attend for work as directed on no fewer than 38 occasions. No substantial excuse.

DETAILS OF MITIGATION: Had worked 162 hours of the 240. Had not reoffended. The Probation Officer (as opposed to the Community Service Officer who reported the breach and instructed the Crown) was new to the case and felt that a fresh start might motivate Hatte more effectively. Had originally spent three and a half months in prison on remand.

PREVIOUS CONVICTIONS: None related to drugs.

CONCLUSIONS: Nine months concurrent on each Count (at hearing on 1st February, 1990, the Crown had moved for sentences of 12 months concurrent on each Count, with a confiscation order for £610. The Court had imposed a Probation Order with 240 hours Community Service and had made the confiscation order sought. The Court had then stated

that it regarded the importation of cannabis as a serious matter, but had had regard to defendant's age and to time spent on remand).

SENTENCE AND OBSERVATIONS

OF THE COURT: Existing order to continue, but remaining 78 hours Community Service to be completed within three months.

C.E. Whelan, Esq., Crown Advocate.
Advocate A.D. Robinson, for the accused.

JUDGMENT

BAILIFF: As you have rightly said, Mr. Whelan, the Court, both the Inferior Number and the Superior Number, have laid down the principle that people who import drugs into this Island should normally receive a prison sentence unless there are exceptional circumstances.

When Hatte first appeared before us for the reasons expressed in the judgment which the Court then gave, it did not grant the conclusions of H.M. Attorney General; and placed Hatte on probation for two years with a Community Service condition. He has now failed that condition and quite rightly you have brought him back to Court and have moved the only possible conclusions you could.

Having failed that test, so to speak, he has not completely failed in relation to probation. It has not been entirely satisfactory but his new Probation Officer - who only took over a little while ago - Mr. Bullivant, said that if it were a question purely of the Probation Order and ignoring the Community Service side of the matter, he would not have thought it appropriate to bring Hatte back before the Court at this stage.

Furthermore, there are a number of matters which counsel have mentioned; indeed you yourself have mentioned as well, or at least one of them, Mr. Whelan. First, that Hatte has worked a considerable number of the Community Service hours, roughly two-thirds. Secondly,

he has an established job, which he has assured us is regular as long as he behaves himself and is earning good money.

Thirdly, before he was presented to this Court he had been in custody for some three and a half months which was equivalent to a sentence of four months and one week. There is the question of a new Probation Officer, but we have already mentioned that. Fifthly, and this is perhaps the most important point, he has not reoffended for a year.

Under the circumstances we think that we would be justified in continuing with the probation Order in order to give Mr. Bullivant an opportunity to work with the accused and for the accused to co-operate, but we are going to set a limit for the completion of the remaining 78 hours of Community Service work.

Therefore, we order that the Probation Order will continue; we order that the remainder of the hours of Community Service be completed within three months unless an explanation acceptable to Mr. Seymour is provided.

I want to warn you, Hatte, that if you fail to complete those Community Service hours, or if you fail in reporting and co-operating with your Probation Officer, the chances are that you will certainly go to goal next time.

No authorities.