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ROYAL COURT

30th August, 1991 120.

Before: The Bailiff, and
Jurats Le Boutillier and Orchard

The Attorney General

- v -

DL

OFFENCES:

- Conspiracy to import cannabis: 1 Count
- Importation of cannabis: 1 Count
- Possession with intent to supply: 1 Count
- Supplied cannabis: 2 Counts.

PLEA:

Not renewed. Pleading guilty and thus convicted in Magistrate's Court and then remitted to Royal Court for sentence only under provisions of Article 16(2) of the Children (Jersey) Law, 1969.

DETAILS OF OFFENCE:

Between the 3rd and 7th April, 1991, personally imported 2 ounces of herbal cannabis and then, having established the contact and procedure in Amsterdam, went back to Amsterdam between the 1st June and 21st June, 1991, and purchased just over 1 lb. of cannabis resin which he got to St. Malo. The other conspirators brought that back to Jersey for him in a speedboat. On the 21st June his mother's flat was raided by the police and customs when they found the bag containing the cannabis in the centre of the room where they also found the defendant, his brother A and two other youngsters who had been smoking the cannabis. Full confession in a recorded interview. No special

circumstances to justify not moving for a custodial sentence.

DETAILS OF MITIGATION:

In effect, first offence. Supplied small social circle but for gain. Second trip to Amsterdam financed by co-conspirators whom he named. His reward to be half the cannabis thus imported. He identified the co-conspirators but they could not be charged as there was no supporting evidence. Very close to his mother and brother. Probation against Borstal but not against custodial sentence in principle. Community Service available and suitable for it. Part of the gain was to finance visit to Biarritz in August.

PREVIOUS CONVICTIONS:

Three minor motoring offences.

CONCLUSIONS:

Six months' imprisonment concurrent for each offence plus forfeiture of drug and destruction.

SENTENCE AND OBSERVATIONS OF THE COURT:

Conclusions granted.

NOTES:

The principle of a custodial sentence for importation for gain even for a first offender is upheld.

The Solicitor General;
Advocate S.J. Habin for the accused.

JUDGMENT

BAILIFF: There is no need for the Court to stress, as it has on many other occasions, the principle that unless there are

exceptional circumstances people who import illegal drugs into this Island, particularly for gain and as a commercial venture which this undoubtedly was, must expect a prison sentence.

In our opinion, those exceptional circumstances relate to the actual occurrence of the offence. We can find nothing exceptional in the background of the accused. It is true that he is a young man and it is true that he is a first offender and this Court, as far as it can, tries not to send young people to prison. But we feel we have little option in this case. We feel that this is a clear case of someone who had brought illegal drugs to the Island in a small quantity to start with successfully, and then was tempted to bring a larger quantity for commercial reasons and gain.

There is no doubt in our minds that he knew perfectly well what he was doing. There was a circle of friends whom he was supplying and whom he would have continued to supply if he had not been caught.

We have said time and time again that any kind of drugs which come to this Island in this manner increase the overall supply in this Island and add to the drugs scene problem with which we are all familiar.

We cannot find that there are exceptional circumstances. We have looked at the cases of Rogers and Hatté, but I want to make it clear that each case must depend on its facts. Whilst the matters in Rogers are said to be principles and they are to some extent, they are not binding in the sense that this Court must necessarily follow them if the circumstances of the particular case do not merit it.

We cannot find that these circumstances would entitle us to take the view taken by the Court in Rogers.

Accordingly you are sentenced to six months' imprisonment concurrent; there will also be an order for forfeiture.

Authorities

A.G. -v- Rogers (13th November, 1989) Jersey Unreported.

A.G. -v- Hatte (1st February, 1990) Jersey Unreported.

A.G. -v- Matthews & Drewitt (5th April, 1991) Jersey Unreported.

