

ROYAL COURT
(Superior Number) 202.

23rd November, 1992

Before: The Bailiff, and Jurats
Vint, Myles, Bonn, Orchard,
Hamon, Gruchy, Herbert.

The Attorney General

- v -

Richard Thomas Rawlinson

Sentencing, following guilty plea before the Inferior Number on 16th October, 1992,
to:

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

AGE: 21 years.

PLEA: Guilty.

DETAILS OF OFFENCE:

1.737 kilograms cannabis resin. Street value £9,000. Expected net profit £8,900. Complex planned operation. Flight to Paris then train to Amsterdam. Drugs hidden in Carteret and retrieved using speedboat from Anne Port. Defendant not a courier although suspicion that he was being 'used'.

DETAILS OF MITIGATION:

Fully co-operative. Guilty plea throughout. Did not involve anybody else. Remorse. Family supportive. Defendant recently unemployed. Otherwise no exceptional circumstances.

PREVIOUS CONVICTIONS:

Several motoring, one public order. One previous 26/2/91 possession of cannabis.

CONCLUSIONS:

Three years' imprisonment (plus confiscation of drugs and of the speedboat used to import the drugs).

SENTENCING AND OBSERVATIONS OF THE COURT:

The time has perhaps come to review the benchmark in sentencing for offences of this nature. In this case (without increasing the benchmark) the proper sentence is three years' imprisonment and forfeiture/confiscations as requested.

S.C.K. Pallot, Esq., Crown Advocate.
Advocate C.M.B. Thacker for the accused.

JUDGMENT

THE BAILIFF: The Court is satisfied that this was a deliberate importation of a Class 'B' drug for gain. It was therefore a commercial venture, although the Court does accept that the way in which you, Rawlinson, got the money was not necessarily from your own resources, but could well have been from other people. Nevertheless, you went into this matter with your eyes wide open. You already knew that the use of Cannabis was unlawful. You had already had one conviction for that and the Court has had careful regard to what the Court of Appeal said in Schollhammer -v- A.G.; Reissing -v- A.G. (14th July, 1992) Jersey Unreported C.of.A., and I think it is opportune that I should read what the Court of Appeal said at p.8 of that Judgment, to which I think Mr. Pallot referred us:

"In conclusion I would add this. There is a lamentable flow of drug cases coming before the Courts of Jersey. The Attorney General in the Schollhammer case rightly referred to a change which has been taking place over the last two to three years. He referred to the growing social problem of drugs, with the corrupting influence that they bring with them, creating inducements, for example, to carry out these smuggling runs.

What we have said about the starting points for sentencing and the normal bands may one day have to be reviewed in the light of this growing social menace. These sentences are not set in stone. However, that is for another day. We refuse leave to appeal".

The Court has asked me to say that in view of the continued flow of drugs into this Island and the use of illegal drugs, it is seriously considering its policy in relation to the length of sentences for drugs offences. This does not affect today's case of course; it cannot be dealt with *ex post facto*. But it is a warning which the Court wishes me to give to persons who are minded to import drugs into this island, that the Court may revise its starting point for sentencing.

Having said that, we have looked at your background very carefully and we have looked at the letters which have been written to us, but we cannot get over the hurdle, and neither can you, that this was a deliberate commercial venture and those who import unlawful drugs into this island as a commercial venture must expect a proper sentence. Therefore you are sentenced to three years' imprisonment.

So far as the boat is concerned, it is confiscated. We did take into account the point raised by you Mr. Thacker, that we should make a reduction because of the confiscation. We decided that it was not appropriate to do so and the drugs are forfeited in order to be destroyed.

Rawlinson, you should know that your Counsel did his best for you and put forward every point which he could have done.

AUTHORITIES

Schollhammer -v- A.G; Reissing -v- A.G. (14th July, 1992) Jersey
Unreported C of A.

A.G. -v- Thomas (15th November, 1991) Jersey Unreported.

A.G. -v- Nicolas and Charles (30th May, 1991) Jersey Unreported.

A.G. -v- Matthews and Drewett (5th April, 1991) Jersey Unreported.

A.G. -v- Douglas (31st January, 1992) Jersey Unreported.

A.G. -v- Davies (10th September, 1992) Jersey Unreported.

A.G. -v- Toone and McNully (24th September, 1992) Jersey
Unreported.

Finance & Economics Committee -v- Bardsley (28th May, 1992)
Jersey Unreported.

Thomas: Principles of Sentencing: p.p. 335-6.