

ROYAL COURT
(Superior Number) 100.

29th July, 1993

**Before: The Bailiff, and Jurats
Coutanche, Vint, Myles, Bonn, Orchard,
Hamon, Gruchy, Le Ruez, Vibert, Rumfitt**

The Attorney General

- v -

Kevin John Falle

Sentencing, following guilty plea, on 25th June, 1993, to:

- 2 counts of** supplying a controlled drug (LSD), contrary to Article 5(b) of the Misuse of Drugs (Jersey) Law, 1978. (Counts 1 & 2 of the Indictment).
- 1 count of** possession of a controlled drug (LSD), with intent to supply it to another, contrary to Article 6(2) of the said Law. (Count 3).
- 2 counts of** possession of a controlled drug (cannabis resin), contrary to Article 6(1) of the said Law. (Counts 4 & 5).
- 1 count of** possession of a firearm, contrary to Article 23 of the Firearms (Jersey) Law, 1956. (Count 6).

AGE: 19.

PLEA: Guilty.

DETAILS OF OFFENCE:

Supplied about 160 units of LSD over a period of some two months. Found in possession of a further 38 units at time of arrest. Street values totalled approximately £1,200.

Also sentenced for possessing personal amounts of cannabis and a shotgun in prohibited circumstances.

DETAILS OF MITIGATION:

Early years in care; plea of guilty; co-operation; mitigation of the sort which is not spoken of in open Court.

PREVIOUS CONVICTIONS:

Housebreaking and drugs (one previous, supply of Class 'A' but amounted to 'social sharing' with a fellow user).

CONCLUSIONS:

Class A: 2 years 6 months. Cannabis 6 months concurrent.
Shotgun: 2 months concurrent.
Total: 2 years 6 months' imprisonment.

SENTENCE AND OBSERVATIONS OF THE COURT:

Proper reduction for weighty mitigation disclosed on the papers. Could otherwise have been a 4 year sentence. Conclusions granted.

**C.E. Whelan, Esq., Crown Advocate.
Advocate S.J. Crane for the accused.**

JUDGMENT

THE BAILIFF: The Court has considered the approach of the Crown to this case, and is satisfied that it was the correct approach.

We have no doubt that the appropriate starting point for sentencing, in cases of this nature and particularly in this case, would have been six years, and after allowing for a number of mitigating circumstances, this would have then been reduced to something like four years.

However, there were some exceptional circumstances to which counsel referred us and in respect of which we read some documents. A further allowance of 18 months was made by the Crown for those exceptional circumstances, and the question was whether this Court should make a further allowance, as suggested by counsel for the accused, of six months.

The Court is sad that it has to sentence a young man of ability to quite a substantial term of imprisonment. We have looked at the background and we have looked at the facts of the case and the offences themselves. They are serious offences even if they have sprung from a drug culture into which the accused was drawn. It is one of the sad classical cases where, having been drawn into the drug culture, the accused had to sell drugs in order to fund his own addiction, and then when that source is closed to him, he then turns to other sorts of crime to fund his habit. These are serious matters and serious offences and a prison sentence is unavoidable.

We note that the accused has accepted that a prison sentence is inevitable and he does not seek to minimise what he has done.

Although we have considered very carefully whether we could reduce the conclusions further, we have decided unanimously that the Crown has made full and proper allowance for the exceptional circumstances I have mentioned and, accordingly, the conclusions are granted. You are sentenced to a total, as asked for by the Crown, of two years and six months' imprisonment. There will be an Order for the forfeiture and destruction of the drugs.

Authorities

Thomas: "Principles of Sentencing" (2nd Ed'n): p.218: Assistance to the Police.

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

Aramah (1982) Cr.App.R.(S.) 190.