

ROYAL COURT
(Superior Number)

121.

23rd September, 1993

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

The Attorney General

- v -

André Philippe Gummer

Sentencing, following guilty plea before the Inferior Number on 20th August, 1993, to:

- 2 counts of supplying a controlled drug, contrary to Article 5(b) of the Misuse of Drugs (Jersey) Law, 1978 (Count 1 of the Indictment [L.S.D.]; Count 2 [amphetamine sulphate]);
- 2 counts of possessing a controlled drug with intent to supply it to another, contrary to Article 6(2) of the said Law (Count 3 [L.S.D.]; Count 4 [amphetamine sulphate]); and
- 2 counts of possession of a controlled drug, (cannabis resin) contrary to Article 6(1) of the said Law (Counts 5 & 6).

AGE: 20

PLEA: Guilty.

DETAILS OF OFFENCE:

Gummer was arrested while dealing in Bath Street. He had in his possession 30 L.S.D. tabs and 13 "wraps" of amphetamine sulphate. He admitted having dealt in drugs for 3 months. Street value of drugs was about £460. He made profits of 2 per L.S.D. tab and £5 per amphetamine wrap. He consented to a Confiscation Order of £700.

DETAILS OF MITIGATION:

Appallingly deprived childhood. Was from age of 13 roaming streets of the Algarve as an urchin fending for himself. Unstable and unhappy young man.

PREVIOUS CONVICTIONS:

1 for possession of drugs, including Class A.

CONCLUSIONS:

3½ years' imprisonment.

SENTENCE AND OBSERVATIONS OF THE COURT:

3 years' imprisonment.

**The Attorney General.
Advocate Mrs. S. Sharpe for the accused.**

JUDGMENT

THE BAILIFF: The Court has looked carefully at the three cases cited by you, Mrs. Sharpe, namely A.G. -v- Saunders (5th August, 1993) Jersey Unreported; A.G. -v- Roberts, Gleeson (23rd November, 1992) Jersey Unreported, and A.G. -v- Siham (10th August, 1992) Jersey Unreported, and asked itself whether it would be possible, because - to use your words - of the exceptional deprivation suffered by your client during his early youth and as he is still young, to place him on probation.

But for the earlier probation order (which was discharged because of his co-operation) we might have done so, but unfortunately, we think that that there would be an unwarranted risk that he would return to his practice of dealing in drugs. There is also no doubt that there is, in general, an expectation that dealers in drugs, even small retailers such as your client,

merit, and in ordinary circumstances should be given, a prison sentence. Therefore we felt unable to accede to your request that we should place him on probation.

That left the Court with three choices: 6 months' imprisonment (which would be clearly inappropriate, as you rightly said, because of the Schollhammer case); Borstal training, or a period of not less than three years' imprisonment.

We considered that Borstal training might have been appropriate if the time he has already served did not count towards the sentence, but it does and therefore the time remaining to be served in prison would be far too short to reflect the seriousness of this offence. That left the Court with the question of what period of imprisonment should be appropriate.

Because of the difficulties of Gummer's upbringing, of which we have taken full account, we think the best we can do - both for him and to be sure that our principles of sentencing are continued as regards dealing in drugs - is as follows: we grant the conclusions but will vary them slightly. On count 1, Gummer, you are sentenced to 3 years' imprisonment; on count 2, to 2½ years' imprisonment, concurrent; on count 3, to 3 years' imprisonment, concurrent; on count 4, to 2½ years' imprisonment concurrent; and on counts 5 & 6, to 3 months' imprisonment, concurrent with each other and with the other four counts, making a total of 3 years' imprisonment. There will be an order for the forfeiture and destruction of the drugs.

Authorities

A.G. -v- Saunders (5th August, 1993) Jersey Unreported.

A.G. -v- Roberts, Gleeson (23rd November, 1992) Jersey Unreported.

A.G. -v- Siham (10th August, 1992) Jersey Unreported.

Schollhammer -v- A.G., Reissing -v- A.G. (14 JUL '92) Jersey Unreported Court of Appeal.