

JERSEY / JUDGMENT

AG v Ahmed [2005] JRC 067 (23 May 2005)

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JUDGMENT

THE BAILIFF: 1. This defendant has pleaded guilty to possession with intent to supply heroin and possession of cannabis. The heroin weighed 93 grams having 34% purity and had a street value of between £28,000 and £42,000. The defendant admits to selling heroin to fund his heroin habit and the police investigation revealed significant movements of cash through his bank account. Indeed the defence did not contest the making of a confiscation order in the sum of £44,092.78. 2. During the interviews with the police and indeed until almost up until the date of sentencing, the defendant has prevaricated and given inconsistent accounts to the police as to his involvement in drugs. He has previous convictions including one conviction for possession with intent to supply heroin for which he was given a relatively lenient sentence of 2 years' imprisonment in 2002. On the face of it, the defendant is facing a substantial sentence of imprisonment in accordance with the Court's established policy of punishing severely those who traffic in Class A drugs. 3. There is, however, significant mitigation available to this defendant. He has pleaded guilty to the indictment and has not only given significant assistance to the police, but has agreed that the fact of giving that assistance may be put into the public domain. His assistance to the police led to the arrest and sentencing of another man and to the recovery of heroin worth about £3,000. 4. The Court has made it clear on a number of occasions that those who are prepared to assist the police, and to acknowledge that assistance publicly, will be entitled to a significant discount on a sentence which would otherwise be imposed. It is in the public interest that those involved in this unpleasant trade should be aware that the authorities will give significant rewards to those giving information about drug trafficking activities. 5. We agree with the Crown Advocate that the appropriate starting point in this case is one of 10 years' imprisonment. The Crown Advocate made a generous allowance for the mitigating factors of co-operation with the police and the other elements of mitigation, and arrived at conclusions of 5 years' imprisonment. We will allow a further 18 months for the additional mitigation of allowing the defendant's co-operation to be placed in the public domain. 6. On Count 2, you are sentenced, to 3½ years' imprisonment, and on Count 3 to 2 weeks' imprisonment, concurrent, making a total of 3½ years' imprisonment. We order the forfeiture and destruction of the drugs. 7. We turn now to the question of whether or not a recommendation should be made to the Lt. Governor that the defendant be deported at the conclusion of his sentence. The question of deportation was considered by this Court in 2002 when a recommendation was made by the Crown but the Court decided on balance that other factors outweighed the appropriateness of a recommendation for

deportation. 8. We have applied the two tests which have been set out in previous decisions of this Court, originating from the English case of R -v- Nazari

[1980] 3 All ER 880. The first element of the test is whether the defendant's continued presence in Jersey is to the detriment of the Island. As was said in Nazari, and has been said by this Court, this Island has no place for criminals of other nationalities particularly if they have committed serious crimes. This is the defendant's second conviction for a serious drug trafficking offence. The advice of the Probation Officer is that the defendant is at high risk of re-offending. The court has no hesitation in concluding that the defendant's continued presence in Jersey is detrimental to the Island's interests. 9. We turn to the second matter which relates to the effect that an order recommending deportation might have on others who are not before the Court and who are innocent persons. As the Court said in Nazari, this Court and all other courts would have no wish to break up families or impose hardship on innocent people. We have considered very carefully all the material placed before us and have considered the relationship which the defendant has with his fiancée and her family, and his relationship with his former wife and their daughter. It is that latter relationship to which the Court has given the most anxious consideration. 10. There is, however, no evidence that the defendant has provided any significant financial support for his daughter and for much of the daughter's life the defendant has in fact been incarcerated in prison, as a result of his drug trafficking activities. On the other side of the balance is to be considered the considerable damage which we have no doubt will be caused to this community and to other young people, if the defendant does remain in Jersey. We consider that the balance tips in favour of deportation and we will accordingly recommend to the Lt. Governor that Ahmed be deported from Jersey at the conclusion of his sentence. Authorities Rimmer Lusk & Bade -v- AG [2002]JLR373. A. G. -v- Ahmed [2002]JRC188. R -v- Nazari [1980] 3 All ER 880. Mendes -v- A. G . [2003]JCA106. Page Last Updated: 14 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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