

JERSEY / JUDGMENT

AG v Boon [2022] JRC 068 (10 March 2022)

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JUDGMENT

THE BAILIFF: 1. You are to be sentenced today for two counts relating to unlawful drugs. The first count which is by far the more serious, is the importation of 303 MDMA tablets into the Island, the second is the possession of a small amount of cannabis. 2. The importation of the MDMA tablets was discovered when in April 2021, Customs Officers examined a package addressed to you that contained a box which itself contained the tablets. It was replaced by a dummy postal package and was delivered to the original address to which it had been directed. Customs Officers then executed a search warrant and you were arrested, the dummy package and tablets were recovered in your room as was a small amount sum 4 grams of herbal cannabis. 3. You were interviewed that day and initially provided no comment responses and did not provide your pin and passcode to your mobile phones, or indeed sign a blank disclosure authority. You were then released on bail but subsequently failed to attend and could not be traced. Later you handed yourself in to Customs Officers and were interviewed again at which time you made full admissions to ordering the MDMA and that you knew it was a Class A controlled drug. You explained to officers that you were addicted to drugs, had moved to Jersey to get away from them and told officers that you took approximately 5 or 6 tablets every two days. You said you have never had any intention to sell them, and you expressed remorse. 4. Expert evidence tells us the value of the drugs is between at street level sum £6,000 to £9,000. It was concluded that the quantity of drugs was for onward supply and not for your own personal use. That is now beyond doubt because you have made full admissions to the Probation Service in which you explained how you were to deal with the drugs and it is clear that a significant amount was for onward transmission. 5. In *Bonnar and Noon v AG*

[2001] JLR 626 sentencing guidelines were handed down ought to be applied in cases concerning Class A trafficking in a tablet or unit form. The guidelines indicate a starting point of seven to nine years for trafficking involving 1 to 500 units, in determining that point references made to the number of units and the defendant's role, although the value of drugs should also be considered. As you imported 303 MDMA tablets the Crown has adopted a starting point of 8 years imprisonment. That starting point as accepted by your counsel is clearly correct and we adopt it. 6. We note that you are generally of good character and that you have no previous convictions. Of course, you also have the benefit of an early guilty plea and we take note that whilst you were not initially cooperative subsequently you made very clear admissions during interview. 7. We also note the contents of the presentencing

report which disclosed what you told the Probation Officer about your actions and intentions and although this differed markedly from what you had told Customs Officers it amounted to a very clear explanation. 8. The psychological report, whilst indicating you do not meet the criteria for an autism spectrum disorder, you nonetheless meet the criteria for ADHD (a new diagnosis which had never been made before) and this had impacted on many aspects of your life. You also suffer according with the same report from anxiety and this to would have had a marked effect on your life. 9. The Crown has referred to the case of AG v Howe

[2020] JRC 268 and of course that does not assist us to any material extent as it is clear the importation of the drugs were in part for onward transmission by you. 10. We also note as well as the matters contained in the psychological report, which we view as extremely important, the other mitigation available to you. The letters of support that you have received from your family and from your friend speak very well indeed to your character. There is also the well-expressed letter of remorse that you have provided to the Court, and we take that expression of remorse in all of these circumstances as genuine. It is clear also that you have made very constructive use of your time in prison. 11. There is nothing exceptional in this matter in the sense that it would cause us to depart from the oft stated policy of the Court in imposing a custodial sentence. We do think that in the unusual circumstances of this case, and it is unusual, that we can make a significant departure from the conclusions moved for by the Crown to allow for available mitigation. 12. We say it is an unusual case because a ADHD diagnosis late in your life as an adult is a significant factor and it is clear that had that diagnosis taken place when you were much younger you could have received treatment and your life may have taken a very different course. The other factors to which we have made reference - the other positive indications about your character-lead us to suppose that might well have been the case. 13. Accordingly, we think that we can make a greater allowance for the mitigation whilst imposing an appropriate custodial sentence. Count 1, from a starting point of 8 years we impose a sentence of 4 years imprisonment. Count 2, we impose no separate penalty. We order the forfeiture and destruction of the drugs seized in this case. 14. We also record our view that it was important to seek a psychological report in this case and we accordingly commend the Probation Service for doing so. 15. That is the sentence of the Court. Authorities Customs and Excise (Jersey) Law 1999. Misuse of Drugs (Jersey) Law 1978. Bonnar and Noon v AG

[2001] JLR 626 . AG v Howe

[2020] JRC 268 . Page Last Updated: 28 Mar 2022 BAILII: [Copyright Policy](#) | [Disclaimers](#) | [Privacy Policy](#) | [Feedback](#) | [Donate to BAILII](#)

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