

JERSEY / JUDGMENT

AG v Boschat [2023] JRC 007 (13 January 2023)

[2023] JRC 007

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JUDGMENT

THE DEPUTY BAILIFF: 1. Simon Boschat, you are 33 years old. Between April 2020 and February 2021, you supplied another man, who has since been sentenced by this Court, with substantial amounts of cannabis and on one occasion agreed to supply him with half a kilogram. In total you supplied, or agreed to supply, at least a kilogram of cannabis. You supplied the cannabis at various prices, often £15 per gram, so that you could make a profit on the supplies. 2. In one message, which we do not hold against you, you boasted that you had in fact been supplying cannabis for several years. You gave advice to the person you were supplying as to how to maximise his profits from the drugs you were distributing to him. You played a crucial role in the chain of supply and without you and people like you the illegal trade in drugs like cannabis would not be able to flourish. 3. The minimum street value of the cannabis you supplied or agreed to supply is in excess of £23,000 and you were, on the evidence that we have seen, dealing in order to supplement your other income from legitimate sources. When you were arrested, you gave the police little assistance and, in particular, you refused to provide access to your iPhone, even when served with a notice requiring you to do so. You deliberately refused to provide your PIN number and the Court will in this case and most cases draw the inference that that was solely to prevent the police of learning of your criminal conduct which, in fact, was proved by the download from a telephone belonging to the person that you were supplying. 4. Count 1 on the Indictment represents the £19,000, or thereabouts that you received from your criminal conduct and we have had regard to the Crown's conclusions and their reference to the factors set out in AG v Goodwin

[2016] JRC 165 and agree with that analysis as does your counsel today. 5. We note that Mr Le Jehan, whom you supplied, was sentenced to 16 months' imprisonment for offences relating to the supply of cannabis and the possession of criminal property. The offences he committed were, in many respects, less serious than those that you face today. He was lower down the chain of supply and the criminal property he possessed was far less and we note that he co-operated with the police, providing them with his PIN number. 6. You supplied cannabis on a commercial basis over a long period and did not assist the authorities, with the exception of entering your guilty pleas. 7. You receive full credit for your plea to Count 3 which you entered before the Magistrate at the end of September last

year. Count 3 is the offence of failing to comply with a notice requiring disclosure of a key. You did not enter pleas in respect of Counts 1 and 2 on the Indictment before the Magistrate and to receive full credit guilty pleas must be entered in the Magistrate's Court, save in exceptional circumstances. 8. It is said that you were unrepresented before the Magistrate, which is right, but you had been charged with these offences three weeks before and had not in that period obtained legal advice. It was referenced in mitigation on your behalf to a QR code at the Magistrate's Court not working but you had three weeks in which to obtain legal advice, and had you done so you would have known, if you did not know, that relevant prosecution papers would have been available to you or your Advocate from the Criminal Justice Unit at the police station including, we are told, nine statements of evidence, 12 exhibits, the charge sheet, the police report and your interview. In any event these were not complicated offences. You knew when you were charged that you were guilty of having in your possession criminal property, as alleged, and you knew that you had been dealing in cannabis, as alleged, and indeed these were identical offences to those of which Mr Le Jehan was convicted and to which your counsel has said we should pay close attention today. 9. We agree that in relation to the offence of not supplying your PIN, there must be a consecutive sentence and in all but the most exceptional circumstances, a consecutive custodial sentence will be passed for such an offence. 10. You have a bad record and you are at high risk of re-conviction, according to the author of the Pre-Sentence Report. 11. We have considered the letters; we have considered the letter from you; the other references and we are impressed and pleased to see that a job will be available to you on your release from custody. 12. In relation to starting points we broadly agree with the Crown's assessment of the starting point at Count 2. In relation to Count 1 we think arguably that the starting point might have been significantly higher and we see from the case of *AG v Davies*

[2022] JRC 107 that the sum of £23,000 criminal property led to the Court proceeding on the basis of a starting point well in excess of 3 years. 13. The sentences we impose are as follows:- (i) Count 1, 18 months' imprisonment (ii) Count 2, 18 months' imprisonment, concurrent (iii) Count 3, 9 months' imprisonment, consecutive making a total of 2 years and 3 months' imprisonment. We hope, in accordance with your letter, that the Court will not see you again. 14. We make the Confiscation Order sought. 15. We order the forfeiture and destruction of the mobile telephone. *Authorities AG v Goodwin*

[2016] JRC 165 . *AG v Davies*

[2022] JRC 107 . *AG v Fish and Hinds*

[2016] JRC 181A *AG v Bhojwani*

[2010] JRC 116 *AG v Le Jehan*

[2022] JRC 045 *AG v Reece*

[2022] JRC 151 *Campbell v AG*

[1995] JLR 136 AG v Thurban et al

[2020] JRC 212 AG v Bennett

[2021] JRC 261 AG v Ferguson, Morgan and Saunders [2022] JRC102 AG v Goncalves

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