

JERSEY / JUDGMENT

AG v Burnside 24-Mar-2021

[2021] JRC 085 (24 March 2021)

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JUDGMENT

THE DEPUTY BAILIFF: 1. Dylan Burnside you are 20 years old and had no previous convictions prior to committing these offences. Had you been 21 or over and had you had any convictions recorded against you then today you would be beginning a lengthy custodial sentence. 2. You imported 19½ LSD tablets by post into the Island in June of last year when you were 19 years old. Whilst on bail for that offence you ran away from the police, obstructing an officer in his execution of his duty and at your home on 30 th January 2021 a small further quantity of a Class A drug, commonly known as 2CB which we are told is an ecstasy derivative, was recovered. 3. As to the principal offence, that of importation of LSD customs officers examined an envelope addressed to you at your then home address, the drugs contained within it had a street value of between £400 and £500. You were arrested on the 9 th September, 2020 and, after initially denying involvement in the offence, you made full admissions to importing the drugs from the United Kingdom in order to use them for yourself during the lockdown period. 4. You said to the police that you knew that what you were doing was "very illegal" and "very serious" . You have had a problem with drugs for a while, including the use of ecstasy and cannabis. You were generally cooperative with the police, you named your supplier and you gave your PIN number. You paid £90 to the man who sold you the drugs. 5. You were charged with importation of controlled drugs on the 11 th October 2020 and released on court bail. Any offending on bail aggravates the offence committed on bail. As to the offences on bail, the police saw you walking shoeless up Vallee des Vaux during the small hours of the 30 th January 2021, just 15 days after your first appearance in this Court when you pleaded guilty, to the LSD offence - and you would have been warned at that stage that you might receive a custodial sentence. 6. The police tried to detain you, but you ran off. You were caught nearby, and a search of your home revealed. as I have said, the tablets of another Class A drug of it appears lower value which you purchased in the Island for your own use. 7. Now we agree that it may be appropriate for the Court of Appeal or the Superior Number to review the starting point for this particular sort of offence, namely a postal importation of a relatively small quantity of Class A drugs for personal use. But we are bound by the authorities, as drawn to our attention by the Crown, and we agree that the starting point for the importation offence is one of 7 years' custody. This alone should demonstrate to you the seriousness of the offence you committed, and alone should prove to you that you had been older or had previous

offences, particularly drug matters reported against you, then you would be starting a lengthy custodial sentence today. But this court is bound by the provisions of the Criminal Justice Young Offenders (Jersey) Law 2014, which provides that the court shall not pass a sentence of youth detention unless no other method of dealing with that person is appropriate. 8. Notwithstanding the offending in this case we, are having regard to the mitigation available to you, regard a non-custodial sentence as appropriate. We have been impressed by the references of those who have written on your behalf and about you, for the purpose of the hearing today. We have read two references from Natalie Strecker of Skills Jersey who has worked with you since September 2019 as your mentor on the Trackers Apprentice Programme. She meets you regularly and describes you as an open, polite and honest young man who takes on board her advice and criticism, and she says that you have taken responsibility for your recent conduct which you regret, that you have matured from the experience and have a much clearer picture of how you now wish proceed in life. 9. We have read two good references from your employer who is prepared to stand by you and to keep your job open. We have read about the qualifications you have obtained in the last year or so. We have read references from your family members including your girlfriend who describes you as being a very kind person, with many goals for the future, and also we have had a letter from you which speaks of the fact that you have now been an apprentice plumber since the age of 16 and the fact that you are now nearing the end of the fourth and final year of your course and your looking forward to achieving your goal of being a fully qualified plumbing and heating engineer and you hope to have a promising and rewarding career as a plumber in due course. 10. We have read the Social Enquiry Reports from the Probation Officer, who is here in court today and he says that losing your liberty will deprive you of the chance to complete your apprenticeship and, with it, the future opportunity to craft a successful and productive life. We know that in some respects you have not had the easiest start in life and we note the recommendation that a Community Service Order is imposed, coupled with a Probation Order. 11. You must understand that community service is a direct alternative to custody and if you breach that order, fail to turn up, fail to do the hours then you will be brought back to this Court and almost certainly sent to youth custody. The Probation Order will be coupled with a Treatment Order which will provide you with ongoing advice, assessment and education as well as regular testing to ensure that you do not relapse into involvement with controlled drugs. If you do test positive for controlled drugs, again you will be brought back to this Court and you will face a custodial sentence. 12. Accordingly, we sentence you as follows in relation to the offences before us today: (i) In relation to the importation offence, we sentence you to 312 hours' Community Service, which is equivalent to 2 years' youth custody, and a 12 month Probation Order and an associated treatment order in the way that I have just described. (ii) On the Second Indictment we impose concurrent orders; Count 1, 40 hours' Community Service, equivalent to 7 days' imprisonment; Count 2, 50 hours' Community Service, equivalent to 1 month's imprisonment. All those hours to run concurrent, making a total of 312 hours. 13. We order the forfeiture and destruction of the drugs seized in this case. Authorities Criminal Justice Young Offenders (Jersey) Law 2014. *Shahnowaz v AG*

[2007] JLR 221 *Bonnar & Noon v AG*

[2001] JLR 626 AG v Le Geyt

[2019] JRC 173A AG v Le Geyt

[2019] JRC 210 AG v Lines

[2019] JRC 184 AG v Benyoucef

[2019] JRC 124 AG v Cooney [2019] JRC 039A AG v G

[2018] JRC 166 AG v Le Coguiec

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