

JERSEY / JUDGMENT

AG v Connelly [2024] JRC 239 (05 November 2024)

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JUDGMENT

THE Commissioner: 1. Richard Steven Connelly you are 41 years old and you appear before this Court to be sentenced in respect of one count of importation of cocaine and one count of importation of ketamine having entered guilty pleas on a basis of plea on your first appearance on 19 July 2024. 2. In your basis of plea you asserted that some of cocaine was for your own personal use and that some would have been shared with associates who you say would not have been charged. Your basis of plea was not accepted by the Crown and we therefore proceed on the basis that the only proper inference to draw from the facts of this case, is that this was an importation of cocaine in part for commercial supply. 3. I deal firstly with the matters of forfeiture and confiscation. I note that the Crown is not currently in a position to make an application for a confiscation order and as requested we therefore postpone the matter of confiscation in accordance with Articles 6 of the Proceeds of Crime (Jersey) Law 1999 to a date of 10 January 2025, before the Samedi Court at 10.00am. 4. We also order the forfeiture and destruction of the drugs seized in this case under Article 29 of Misuse of Drugs (Jersey) Law 1978. 5. In relation to the facts of the case on Tuesday 16 July of this year you were stopped by Customs and Immigration Officers at Jersey Airport, after arriving from Manchester. You told the Officers that you had travelled to Jersey for work and that you were a roofer by trade. You denied using drugs or having been in trouble with the police or customs before. You were taken to the Elizabeth Terminal Custody Suite where you were assessed by the on duty doctor and offered an X-ray but you did not consent to it. 6. On Wednesday 17 July you produced a 11 centimetre long clingfilm wrapped package. Within the clingfilm wrap were 9 resealable bags containing white powder. Two of the bags field tested positive for cocaine and one tested positive for ketamine. When interviewed in the presence of your lawyer, you read a prepared statement in which you admitted importing cocaine and ketamine into the Island. You said that the cocaine was for your personal use and that you intended sharing some with people you knew in Jersey. You said that the ketamine was for your personal use. You then replied no comment to further questions and refused to sign a bank disclosure authority or to provide a PIN for your mobile phone. The drugs were subsequently analysed and confirmed to be 10.29 grams of cocaine with an average purity of 25% and 4.79 grams of ketamine. 7. The Crown's drug expert indicated that the price that you stated you had paid for the cocaine fell well below the current price for low quality cocaine in the

UK. He also indicated that the price that you stated you had paid for the ketamine would be below market value. The expert concluded that whilst he believed that some of the drugs seized would have been for personal use, given that you suggested during initial questioning that you were only a very infrequent user of cocaine, it followed that most of the cocaine imported would have been for supply locally. He suggested that it was unlikely that the surplus cocaine would have been simply given away. 8. In terms of the judicial progress, that you first appeared in the Magistrate's Court on the 19 July charged with the importation of cocaine and ketamine. You entered guilty pleas to both charges and an indication was given that a basis of plea would be submitted. The case was sent to the Royal Court for indictment and sentencing today. You were remanded in custody and have now spent a 110 days on remand which is the equivalent of a sentence of 5 months' and 12 days imprisonment assuming remission of one third. 9. We have had regard to the guideline case *Rimmer v AG*

[2021] JLR 373 in which the Court of Appeal laid down sentencing guidelines to be applied in cases concerning the trafficking of Class A controlled drugs in powder form. The guidelines indicate a starting point of 7 to 9 years for quantities between 1 and 20 grams and in the present case you imported 10.29 grams. The Court of Appeal held that the position of a particular defendant within these bands is to be determined by reference to the weight of the drugs and defendant's role and involvement as principal factors. The value of the drugs should also be considered albeit this is factor of less significance. 10. As we have already noted your basis of plea asserts that you believe the cocaine that you imported to be of relatively low purity, and that it was for personal use and to share with others without charge. In relation to purity the degree of purity is not always to be ignored. The Court of Appeal's decision in *Hasson v AG*

[2004] JCA 124 made clear that in *Rimmer v AG* the Court had left open what the position might be if the low degree of purity was known to and taken into account by the defendant. In the present case the Crown say that your assertion that you attempted to buy relatively low purity cocaine should not influence the sentence that you receive. They say that you did not actually know the purity of cocaine you imported, and at 25% cocaine by weight the drug was not virtually unsaleable. 11. In relation to the ketamine, you imported 4.79 grams of ketamine. , Although in *Valler v AG*

[2002] JLR 383 the Court of Appeal approved to the Royal Court's approach when dealing with the importation of more than one type of drug of increasing the starting point of the most serious count in order to reflect the criminality of the other offences we agree with the Crown's conclusion that the amount of ketamine imported cannot be described as significant and accordingly we agree that an uplift is not appropriate in the circumstances of this case. But the Magistrate's Court guidelines indicate a starting point of 1 month's imprisonment with a range of £1,000 fine to 2 month's imprisonment in relation to ketamine of this amount. In terms of starting points you imported 10.29 grams of cocaine with a street value of between £1,500 and £2,500. We agree that you are to be sentenced on the basis that you organised and carried out the importation yourself. In relation to the

ketamine, we agree that the appropriate starting point is one month's imprisonment. 12. We have read the Pre-Sentence Report prepared by the Probation Service, it is clear that you have significant substance and alcohol issues. You described to the Probation Officer a perpetuating cycle of drinking alcohol throughout the day which led to cocaine usage, not being able to sleep due to the cocaine and then gambling throughout the night. The next day you would spend your winnings or borrow money to continue the cycle of abuse. This behaviour continued up and till your arrest for these offences. The Pre-Sentence Report assessed you as at high risk of re-conviction within a 12 month period. The main factors elevating this risk being your prolonged history of misusing substances and alcohol, and the way in which you use them as a coping strategy when emotionally dis-regulated. Although you told the Probation Officer that you wish to remain substance free when released, it appears that you have not engaged in the past with professionals in the community, although your counsel has indicated that you are now engaging in the prison with alcoholics and narcotics anonymous. 13. Your counsel has pointed out that the numerous letters from people who have written supporting you and pointing out the positive aspects of your character. The Court has read those carefully. We also recognise that with a small quantity the Court may need to exercise a degree of flexibility in its approach to sentencing. Nevertheless, importing controlled drugs into the Island, even in modest quantities has a potential detrimental effect both on the community and individual users. Furthermore, in committing this offence you have let down other people who needed your support. Your mother now has to struggle with the care of your father for whom you were the principal carer. Your partner is now having to manage her pregnancy on her own, and you will not be present for the birth of your first child. 14. Taking into account the fact that some of the drugs were for your personal use, the small quantity of the drugs and their low purity, together with your personal mitigation, we are prepared to reduce the sentence moved for by the Crown and we accordingly sentence you to 3 years' 6 months' imprisonment. 15. Mr Connelly, I omitted to deal with the sentence in respect of the ketamine, the sentence in respect of that is 1 month's imprisonment to run concurrent with the sentence of the relation to cocaine, and you may now go. Authorities Proceeds of Criminal (Jersey) Law Misuse of Drugs (Jersey) Law 1978 Rimmer v AG

[2001] JLR 373 . Hasson v AG

[2004] JCA 124 Valler v AG

[2002] JLR 383 AG v Smitton , Banach and Reeves

[2019] JRC 099 . Shahnowaz v AG

[2007] JLR 221 . AG v Le Guillou

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