

JERSEY / JUDGMENT

AG v Cullen [2019] JRC 244 (17 December 2019)

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JUDGMENT

THE BAILIFF: 1. You are to be sentenced with regard to your part in the importation of the largest seizure of heroin made to date in the Channel Islands. We are a small island and the effect of a substantial importation into the island is felt more keenly and greater prejudice is caused, than might be the case in a larger jurisdiction, and our sentencing policy is accordingly rightly strict and uncompromising. 2. You brought the heroin into the island on 7th September, hidden in the fuel tank of a van that you were driving. The circumstances of the discovery and seizure of the heroin have been set out by the Crown and we do not need to go into the details. We accept that your role in this importation was that of a courier, but as the court has often said, most recently in the case of AG v Barratt

[2017] JRC 046 , "couriers are an important part of the supply chain and you were a courier who could be trusted with this quantity and value of drugs. The damage would have been done and the misery caused to the people of Jersey would have been very substantial indeed had this not be foiled." Those words apply equally to this case so it seems to us. 3. As we have said, the quantity and value of the heroin that you have imported is at this time unprecedented. The total weight was nearly 10 kilograms, 9,978.2 grams to be precise, and the value, even if sold wholesale, was worth £1,424,000 and if cut and sold at street level would have generated between £5 and £10 million. 4. We apply the guideline case of Rimmer v AG

[2001] JLR 373 which indicates a starting point of 14 years' imprisonment and upwards for quantities of 400 grams and more. We consider both the quantity of the drugs and their value to be of significance but we accept that this is not a simple mathematical increase in the starting point on a proportional basis as the quantity increases. Against those considerations must apply an appreciation of your role in importation, which as we have said, was that of a courier and we must, of course, be careful to sentence you on the basis of what you have done rather than embark on a simple mathematical exercise. We approve the dicta of the Court in AG v Carter and Ors

- [2005] JRC 051 quoted to us by the Crown in that regard. 5. We do not think that whether or not you knew of the nature of the drugs being imported or the precise quantity is a highly material consideration. The fact is that you were prepared to import drugs into Jersey, irrespective of their nature, and irrespective of their quantity. Furthermore, we accept the position with regard to the threats that you may have been under is as stated in *AG v Miah*
- [2004] JRC 048 , namely that you have placed yourself in a position where you move in a world where such threats are common currency and you put at risk not only yourself but your family and friends when you incur drugs related debts. Furthermore, of course, we cannot make a proper assessment of the extent to which these threats were real and that is another reason for discounting them. 6. You do have mitigation available to you. We firstly pay regard to your guilty plea. You will understand, of course, that it is arguably of less value than it might otherwise have been as you were caught, in effect, red handed and the evidence against you was strong. But nonetheless you entered a plea of guilty at an early stage and we think it is appropriate to allow for that. We also note your record, which although you do have some convictions for drugs related matters this is your first for any form of drug trafficking and we accept the other mitigation available to you, your effort to change your life and the remorse that is reflected in your letter and, as we have said, in our view that is accounted for in the mitigation allowed for by the Crown which is a reduction of one third. 7. Turning then to the question of sentence, for the reasons we have mentioned, we agree with the Crown's assessment and conclusions that the appropriate starting point is 21 years' imprisonment, an uplift of 3 years from 18 as reflected in the case of *AG v Barratt* referred to by your counsel. This uplift reflects what is more than two and a half times the quantity provided for in the starting point mentioned above and does not in any sense to us appear to be excessive. And from that allowing a reduction to reflect all of the available mitigation the appropriate sentence is 14 years' imprisonment and that is the sentence of the court. 8. We order the forfeiture and destruction of the drugs and of the instrumentality of the offending, namely the Volkswagen van. Authorities *AG v Barratt*
- [2017] JRC 046 . *Rimmer v AG*
- [2001] JLR 373 . *AG v Carter and Ors*
- [2005] JRC 051 . *AG v Miah*
- [2004] JRC 048 *AG v Andrade and Ors*
- [2006] JRC 029 . Page Last Updated: 03 Jan 2020 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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