

JERSEY / JUDGMENT

AG v Davies [2022] JRC 107 (06 May 2022)

[2022] JRC 107

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JUDGMENT

THE COMMISSIONER: 1. The Defendant is to be sentenced for possession of criminal property namely, just over £22,000 in cash and also for three counts of possession of small quantities of drugs. 2. The cash was found in the Defendant's backpack on 9 th May 2021 when he was arrested for other offences. He admitted the possession of the drugs but answered no comment to questions over the cash. In May 2021 he was charged with these other offences before the Magistrate's Court and was sentenced by the Magistrate on 28 th July 2021 to 11 months' imprisonment and he was released from that sentence on 1 st February 2022. 3. On 20 th January 2022 in relation to the current offences the Magistrate permitted the Defendant to enter no plea for the criminal property charge and he pleaded guilty when first indicted before the Royal Court. He pleaded guilty to the three possession charges. 4. The Defendant was unemployed at the relevant time and had no legitimate source of income. He has a record of 9 convictions for 33 offences, 5 of which are for drugs possession, but as Advocate Dix pointed out these all took place whilst he was a young offender. 5. The maximum sentence for possession of criminal property is 14 years. There are no guideline cases. The Prosecution have referred us to the following cases AG v Herd

[2021] JRC 223, AG v Hagin

[2020] JRC 176 , AG v Hagin

[2020] JRC 157 and AG v Palmer

[2017] JRC 079 all of which involved concurrent sentences for serious offences of supply of drugs. In a recent case, the judgement for which has not yet been published, AG v Umurzokov and Ors

[2022] JRC 101 sentences of 3 and 4 years were imposed for the involvement of the defendants in that case in a professional money laundering operation in which £60,000 had come into their possession. 6. The Defendant is assessed at a very high risk of reconviction and the Prosecution move for a sentence of 3 years and 6 months' imprisonment for the criminal property charge from a starting point of 4 years and 6 months. The Prosecution submit that the Defendant is not entitled to a full one third discount for his guilty plea because he did not plead guilty at the first opportunity before the Magistrate and referred the Court to the recent case of AG v Goncalves

[2022] JRC 097 in which the Court said, "to receive full credit for plea such pleas must be entered in the Magistrate's Court." 7. When the Defendant came before the Magistrate on 20 th January 2021 the case of Goncalves had not yet taken place and the judgment published. But furthermore the Magistrate agreed that no plea could be entered because it was not clear, apparently, what the Prosecution case was in relation to this money. Advocate Dix explains to us that as soon as it was made clear the Prosecution were notified that a plea of guilty would be entered. 8. Advocate Dix has made a very comprehensive plea in mitigation which of course we have taken into account together with the documents before us including the letter from the Defendant and indeed the very helpful letter from his mother who is in Court. 9. Taking first the level of the Defendant's involvement in criminality we accept that it was limited to holding this money. There is no evidence that the Defendant was involved in any predicate offences and the examination of his bank accounts and mobile phone would not appear to suggest any such involvement. Even so, money laundering is serious in that it perpetuates crime and is essential for its functioning. The Defendant's involvement in criminality was however less than the other cases that we have been referred to and we assess the appropriate starting point for the money charge at 3 years and 9 months, and we accept that the Defendant should get a full one third discount for his plea of guilty, once the case against him became clear, which would bring the sentence down to 2½ years' imprisonment. 10. The Defence also raise a valid point on totality. These offences took place at the same time as the offences for which the defendant was sentenced on 28 th July to 11 months' imprisonment. Furthermore he was apparently told at that stage that no other charges were being considered. If all of these offences had come before the Court at the same time then we are quite clear that the Court would have taken into account the totality principle. Allowing for that principle as best we can, and it is not an easy exercise at this stage, the delay that has taken place and the other mitigation put forward we further reduce the sentence to 2 years' imprisonment. This case is too serious however, for the imposition of a non-custodial sentence, in particular the imposition of a Probation Order, as urged by Advocate Dix. 11. We accept and commend the work the Defendant is now doing in prison to address his issues and undertaking the therapy that has been recommended. 12. On Count 1 you are sentenced to 2 years' imprisonment. On Counts 2, 3 and 4 no separate penalty is imposed which results in a total sentence of 2 years' imprisonment. 13. We order the forfeiture and destruction of the drugs and scales seized in this case. Authorities AG v Herd

[2021] JRC 223. AG v Hagin

[2020] JRC 176 . AG v Hagin

[2020] JRC 157 . AG v Palmer

[2017] JRC 079 . AG v Umurzokov and Ors

[2022] JRC 101 . AG v Goncalves

[2022] JRC 097 . Hagin v AG

[2020] JCA 247 . AG v Fish and Hinds

[2016] JRC 181A . AG v Goodwin

[2016] JRC 165 . AG v Bhojwani

[2010] JRC 116 . Page Last Updated: 09 Jun 2022 Back to top About JLJB Accessibility Contacts
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