

JERSEY / JUDGMENT

AG -v- Dos Santos [2015] JRC 229 (12 November 2015)

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JUDGMENT

THE BAILIFF: 1. You are here to be sentenced for being knowingly concerned in the fraudulent evasion of the prohibition on the importation of cannabis. The facts are that you drove a car from Portugal to St Malo and onto the ferry to Jersey. Concealed in the petrol tank were packages of cannabis, weighing 21.265 kilograms. We are told the purchase price in Portugal would have been between €15,000 and €33,000. The wholesale value in Jersey is £220,000 and the drugs have a street value in Jersey of between £330,000 and £440,000 so this was a very substantial importation. 2. You told the police that you knew you were carrying something illegal but you did not know that it was cannabis; you thought perhaps it was laundered money, your counsel says, tax money; you agreed to import the material for a fee of 3-4,000 euros. At one point you were going to change your mind, and the Court is satisfied that you were, and you turned the car around but you were threatened, you say, and indirectly so was your daughter. 3. It is well established that threats of this kind do not provide any mitigation. When you knowingly engage in criminal conduct on behalf of other people you cannot be surprised if they play a rougher game than you anticipated and there is also the policy reason that we do not allow such claims as mitigation because it is impossible in most cases to verify whether the claim is true or not. 4. As you will have been told by your counsel the sentencing policy in this Court for cases of this kind is well established and we follow AG-v-Campbell

[1995] JLR 136 which was a Court of Appeal decision some years ago. 5. We have to fix a starting point by reference to your involvement in drug trafficking and the weight of the drugs is a very material factor in that assessment. For this offence the Crown contends that a starting point of 8 years is appropriate and your counsel does not dissent from that. We agree too, having regard to the quantity of the drugs and you're being trusted to bring them to Jersey and we therefore take 8 years' imprisonment as the appropriate starting point. As your counsel says, you are aged 58 and have no previous convictions and that is a substantial point in your favour. It is also very much in your favour that you have cooperated with the customs officers and that you have pleaded guilty and that gives us cause to look for a reduction against the starting point. 6. We have read carefully not only the reference which you have provided from your sister and from your colleague in the UK, but also your own letter and we accept that you are ashamed and remorseful and that

you realise what a stupid thing you did on this occasion, and we have taken all that into account but having done so we still think that the conclusions which the Crown reached are correct. 7. You are therefore sentenced to 4½ years' imprisonment in relation to this charge. 8. We also have considered the question of deportation. It has not been a matter which has been opposed by you and we certainly are satisfied that an offence of this kind meets the first part of the test in *Camacho-v-AG*

[2007] JLR 462 and therefore that it is appropriate we look to see if there is anything personal in your circumstances which should prevent us from making a recommendation; we do not think there is any personal circumstance that should prevent us doing so and accordingly we make a recommendation for deportation. 9. We also order the forfeiture and destruction of the drugs. *Authorities AG-v-Campbell*

[1995] JLR 136 . *Camacho-v-AG*

[2007] JLR 462 . *Barr v Attorney General*

[2003] JLR N 42. *Barr v AG*

[2003] JCA 158 . *Hamilton and Owens v Attorney General*

[2010] JLR 313 . *Attorney General v Miah*

[2004] JLR N 10. *AG-v-Miah*

[2004] JRC 048 . *Attorney General -v- Logan*

[2015] JRC 113 . *Attorney General -v- Brown*

[2008] JRC 208 . *Attorney General -v- Ferreira*

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Prepared on 29 October 2026 · Esheria