

JERSEY / JUDGMENT

AG v Duffy 22-Apr-2021

[2021] JRC 121 (22 April 2021)

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JUDGMENT

THE DEPUTY BAILIFF: 1. Paul Duffy you are 38 years old and fall to be sentenced for two offences, the principal one being an offence of possession with intent to supply a Class A drug, namely oxycodone. The police executed a drugs warrant at your home in St Peter in February last year and discovered four boxes containing a total of 196 oxycodone capsules (Count 1), and a vape pen containing 39 milligrams of tetrahydrocannabinol, another Class A drug (Count 2). In addition, they found what can only be described as deal list by your bed, in which appears to have been recorded a number of individuals who owed you money, four in total, owing between £120 and £300. You later said this list was some years old, which appears to be untrue because the list was on an envelope by a bank statement for your bank account for the period September to October 2019. 2. In interview you told the police that the oxycodone was for your sore back and had been prescribed to you by your general practitioner in Glasgow. This was also a lie, as enquiries with your GP surgery in Glasgow revealed they had never prescribed oxycodone to you, or indeed any medication since 2015. As to why the oxycodone boxes had no prescription labels upon them, you said that you always remove the labels from the boxes but could not explain why. You could not explain why because the boxes of pills had not been prescribed to you in the first place, as you now accept in your basis of guilty plea. 3. The analysis by a police drug expert says that oxycodone is an opiate drug used illicitly to produce relaxation and euphoria. The drug carries a high potential for abuse because of its potency. It is addictive and the police expert expressed the opinion, which we accept, that you obtained these drugs on the illicit drugs market and that the deal list showed amounts divisible by 10, which corresponds with the street value of 1 oxycodone capsule, £10. He expressed the view that the capsules were intended for onward distribution based upon the large commercial, as he saw it, quantity and the deal lists that were recovered. The value of the pills was approximately £1,960, that is to say 196 pills at £10 each. 4. The basis of your guilty plea, which the Crown rejects, is that you were to sell a third of the tablets to your friends and two-thirds were to be used yourself for, amongst other things, pain relief. However, in any event you agree, pursuant to your basis that you were to effectively sell on a commercial basis a third of these Class A drugs, which you obtained illicitly, to other people in order to fund your habit and to fund your purchase of the whole of these Class A drugs. 5. We note from the Social Enquiry Report that you now admit that the oxycodone tablets were not

prescribed, however you misled the Probation Officer in saying they were not for onward supply as you now accept a third of them were, and we sentence you in accordance on the basis of your plea, noting as we have said the Crown (as they are entitled) to have rejected it. 6. We have considered the case of *Bonnar and Noon v AG*

[2001] JLR 626 and note the guidelines indicate a starting point of 7 to 9 years' imprisonment, where the number of tablets range from 1 to 500. We agree that the starting point in this case is 7½ years' imprisonment and indeed a slightly higher starting point would have been justifiable had it been sought. We give you credit for your guilty plea and all the matters that have been urged on your behalf. In particular, we have taken into account your letter of remorse, your work record and what has been said on your behalf by your ex-partner and your mother. 7. On any view this is a case where you were prepared to sell Class A drugs to others. You have a poor record and a history of substance misuse. You were sentenced in the United Kingdom in March 2010 to 16 months' imprisonment, your involvement in supply of 2 kilograms of cocaine, and you were convicted in Jersey in May 2016 for the importation and possession of 1000 Valium tablets. 8. The records of the alcohol and drugs service for 2019 and 2020 show that that about the time you were committing this offence you were abusing not only oxycodone but also subutex and pregabalin. In July last year you were also using diazepam illicitly and we note that the following month you were arrested and subsequently convicted for an offence of driving a motor vehicle whilst under the influence of that drug. 9. Because of your misuse of a combination of drugs at that time the Alcohol and Drugs Service discontinued your detoxification prescription owing to non-compliance with their guidance and concerns for your safety. You have just served finishing (on Monday) a sentence of 9 months imprisonment, for motoring offences and the risk of your reconviction is high. 10. These offences are so serious that only a significant sentence of custody can be warranted and the sentences that we impose are as follows: Count 1, 4 years and 9 months' imprisonment; Count 2, 6 months' imprisonment concurrent, making a total of 4 years and 9 months' imprisonment. 11. We make a declaration of benefit and a Confiscation Order in the sums sought and agreed. 12. We make a forfeiture and destruction order in relation to the drugs and associated paraphernalia. *Authorities Bonnar & Noon v Attorney General*

[2001] JLR 626 AG v Hall

[2021] JRC 045 AG v Teixeira

[2021] JRC 016 AG v Thurban and ors

[2020] JRC 212 AG v Smitton , Banach and Reeves

[2019] JRC 099 AG v O'Connor et al

[2019] JRC 093A AG v Duffy

[2016] JRC 096 AG v MacKenzie

[2011] JLR 689 AG v Miah

[2004] JRC 048 Bonnar and Noon v AG

[2001] JLR 626 . R v Cairns

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