

JERSEY / JUDGMENT

AG v Dunning [2022] JRC 236 (30 October 2022)

[2022] JRC 236

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JUDGMENT

THE DEPUTY BAILIFF: 1. Hayden Dunning, stand up please. You are 26 years old and fall to be sentenced for a number of offences involving the supply of controlled drugs. It appears from the Probation Report that you began as a user of MDMA and Cocaine, but the pressure of drug use and the pressure that you became subject to from your suppliers meant that in a relatively short period of time you became a dealer in drugs yourself. That is unfortunate as the drugs that you became involved in are dangerous in their own right and have been classified as such by statute. 2. You claim to have made no money from selling the drugs that you have sold, but you did sell them for cash so this was a commercial supply. You claim your supply of drugs did not harm anyone you supplied. You need to reflect on that as your involvement in controlled drugs has certainly harmed you and led you to commit serious offences. 3. At 1:15 a.m. on 4th November last year you were driving a Renault Trafic van which came to the attention of the police at Waitrose supermarket carpark in Rue des Pres. There were three passengers in your van. The van smelt of Cannabis and a search of the vehicle revealed scales, small plastic bags, cash in various locations, and in short all the necessary paraphernalia to deal from the van including telephones, drugs to the extent of 1.78 grams of MDMA (Count 12), 16.75 grams of Cocaine (Count 11), a separate quantity of MDMA weighing 12.22 grams (Count 10), twenty two L shaped tablets weighing 13.08 grams containing MDMA (Count 12) and herbal Cannabis weighing 2.81 grams (Count 13). The street value of the drugs in your van totalled between £3,370 and £6,020. The police expert who analysed the case described you as "operating a mobile one-stop shop with Class A and Class B drugs." 4. You did, after you were arrested, give the police access to your mobile phone which was examined and revealed offers to supply various particular individuals, including at: (i) Count 1, 4 grams of MDMA to a man you stored as "Nick Pizza" on your phone in January 2020. (ii) Count 2, 5 grams of cocaine to another individual between April and June 2021. (iii) Count 3, a further supply to the same customer as at Count 2, this time 4 grams of cocaine in July of last year. (iv) Count 4, offering this same person amphetamine in July of last year. (v) Count 5, offering a third person MDMA in August last year. (vi) Count 6, offering a fourth person ecstasy tablets in August last year. (vii) Counts 7 and 8, offering ecstasy tablets to a further contact in September and October of last year. (viii) Count 9, offering to supply five ecstasy tablets to your customer at Counts 2, 3 and 4 in October of last year. 5. When you were arrested and interviewed

you made no comment, but you entered your pleas of guilty before the Magistrate's Court at the first opportunity and accordingly you are entitled to, and receive, full credit for those pleas of guilty. 6. In total you offered to supply at least 13.08 grams of Class A drugs (MDMA) and Cocaine and had in your possession, as we have said, 16.09 grams of Cocaine with intent to supply, 14.22 grams of MDMA with intent to supply and twenty-five MDMA tablets. This amounts to a total weight of 44 grams of Class A drugs and we agree with your counsel that having regard to the total weight of Class A drugs and the fact that there were two Class A drugs in this case that the appropriate starting point on Counts 1, 2, 3, 10 and 11 of the Indictment is 9 years imprisonment. 7. In relation to the other counts principally involving ecstasy tablets, Counts: 5, 6, 7, 8, 9 and 12 we fix a starting point of 7 years' imprisonment and having regard to the principle of totality we hold that all the sentences we are to impose will be concurrent with each other. 8. We note from the contents of the reports prepared on your behalf that you have struggled with ADHD all of your life (we will return to your mental health in a moment) but you have been able to run a business which owing to your offending you have now unfortunately lost. You are not a man of good character, but you have no relevant convictions recorded against you and this is your first experience of a custodial sentence. 9. It is unfortunate that your mother is in poor health and that your partner, who has written to the Court, and your child will be separated from you during your time in custody, but that of course is a consequence of your offending which you would or ought to have known about at the time you embarked upon this offending. 10. Dr Boucher says you will benefit from psychological therapy owing to your experiences of childhood trauma and the fact that you meet the diagnostic criteria for a depressive personality disorder. Accordingly, we order that her report and the report of Dr Engelbrecht are released to the prison authorities, so they assist and inform the treatment you receive in custody. 11. We have, as invited by your counsel, considered whether it is possible to impose a non-custodial sentence today, but these offences are so serious in our judgment that only a custodial sentence is warranted. 12. We order the forfeiture and destruction of the drugs seized in this case. We have already adjourned the question of confiscation. 13. In addition of giving you full credit for your pleas of guilty we take the view that there are matters of personal mitigation in this case which warrant a further significant reduction in sentence and those are as follows: (i) You did co-operate with the police beyond the entering of your early plea. Not only providing access to your phone but also your bank statements. (ii) You have a significant history of struggling with your mental health. We note from the report of Dr Boucher that when you were admitted to Orchard House some years ago it was noted that you were vulnerable and an easy target for manipulation, partly as a consequence of your history of ADHD and post ADHD emotional deficits in regulation of your behaviour. We take the view, and this one of the conclusions of Dr Boucher, that these matters played a part in and were causative of you becoming associated with this offending. Indeed Dr Boucher says in her conclusion: "...that Mr Dunning's symptoms of ADHD, alongside with his difficulties with childhood trauma and consequential personality and attachment difficulties, have been predisposing factors in his offending behaviour." (iii) Your strong work ethic, about which we have read, and your genuine remorse. (iv) We have had regard to the fact that in part your offending was driven by your relative social isolation. The report in front of us speaks about you being pressurised by friends to sell drugs, and about having very few friends after losing one of

your closest friends. You partly involved yourself in this offending in order to gain friends and gain social acceptance. When you were arrested all of your so called new friends melted away. 14. So, for those matters we further reduce the Crown's conclusions and the sentences we impose are as follows: (a) Count 1, the starting point of 9 years. We impose a sentence of 4½ years' imprisonment. We impose the same sentence and the same starting point on Counts 2 and 3. (b) Count 4, we impose a sentence of 4 weeks' imprisonment. (c) Count 5, starting point of 7 years imprisonment. We impose a sentence of 3½ years' imprisonment and the same starting point and sentence on Count 6, 7, 8 and 9. (d) Counts 10 and 11 we impose the same sentences as on Counts 1, 2 and 3. (e) Count 12, we impose the same as we imposed on Count 9. (f) Count 13, we impose a sentence of 4 weeks' imprisonment. 15. All the sentences to run concurrently making a total of 4½ years' imprisonment. Authorities Misuse of Drugs (Jersey) Law 1978. AG v Jones

[2021] JRC 290 AG v Picot

[2021] JRC 270 Bonnar v AG

[2001] JLR 626 Rimmer v AG

[2001] JLR 373 Page Last Updated: 22 Nov 2022 Back to top About JLIB Accessibility Contacts
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