

JERSEY / JUDGMENT

AG -v- Eagle [2014] JRC 076 (24 March 2014)

[2014] JRC 076

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JUDGMENT

The COMMISSIONER: 1. The defendant is a 36 year old fisherman with a history of opiate dependency from the age of 16. Despite a good family upbringing and the installation of a good work ethic this addiction, and his desperate attempts to control it have lead him to a point where, as he told the Probation Department, he needed to get caught. 2. He now stands to be sentenced for importing Subutex, a Class B drug, more readily available on prescription in France, from where he obtained it on two occasions. On the first occasion he imported the equivalent of four tablets and on the second 136 tablets, which if sold would have a street value of £10,880. These offences place him in breach of a binding-over order imposed in the Magistrate's Court for possession of three quarters of a tablet of Subutex. 3. The Crown have accepted that the defendant should be sentenced on the basis put forward by his defence counsel on the 13 th February, 2014:- "[The defendant] has a long-standing heroin addiction which he controls by the use of Subutex. He has sought assistance from the Drug & Alcohol Service for some 10 years in this regard. He has taken Subutex to assist in the control of heroin cravings on a number of occasions throughout this time with the Service's assistance. In early October 2013 he finished a Subutex course with the service but found that he was still unable to cope. However to commence a further course of Subutex he had to go on a waiting list for 3-4 weeks before he could see a counsellor. [The defendant] found he was unable to wait and sought the assistance of a doctor in Rennes. The doctor prescribed him a limited amount of Subutex in the first instance and [the defendant] returned to Jersey with the 4 tablets found upon him in October. The prescription of Subutex in Jersey is very tightly controlled and requires the patient to attend upon a chemist in order to be given the drug and to take it then and there. [The defendant] was taking one tablet a day; he therefore needed to attend upon the chemist daily. As [the defendant] is a fisherman, who is required to be at sea for most of the day he found it difficult to fit in these daily visits to the chemist. The winter fishing season was approaching and [the defendant] was keen to make the most of the increase in prices of fish and shellfish. He therefore returned to the doctor in Rennes in early November, with the intention of obtaining of Subutex to enable him to self-medicate (one tablet twice a day), through the winter fishing season while continuing to work on his fishing boat. The doctor was obliging in these circumstances and prescribed [the defendant] 140 tablets, two of which he took. This course equated to 70 days' supply. 4. The defendant has limited previous convictions which suggest that he has managed his drug problems without resorting to criminal behaviour. A number of risk factors, namely substance misuse, associated

mental health problems, poor decision making and lack of consequential thinking has led to him being assessed as being at a medium risk of re-offending. The Social Enquiry Report states that he "presented well in interview and co-operated fully in the preparation of this report." He recognises that this may be his final opportunity to gain control of his drug problem and work towards establishing a life free from the cyclical nature of drug misuse that has blighted his life so far. 5. He suffers from a number of health problems and it was originally thought this might make him unfit for community service, but it has now been confirmed to us that he is fit for such service if it were to be imposed. Both Mr Gafoor and the Probation Department recommend a Community Treatment Order, in conjunction with a Probation Order, which would include his taking the opiate blocker naltrexone under daily supervision; a role his mother has agreed to undertake. 6. The Crown takes the view that the quantity of drugs involved, notwithstanding that it for his personal use, makes a custodial sentence inevitable and recommends a total sentence of 18 months' imprisonment. 7. In terms of mitigation the defendant has pleaded guilty and he has the support of his wife and family. He has made good use of his time in custody and is now fully detoxed. His story, it seems to us, is a stark reminder of the destruction that drug addiction brings both to the addict and to his family. 8. Unlike the case of AG-v-Trachant

[2014] JRC 052 the Crown have accepted his basis of plea, which shows an addict going to France to acquire, legally, Subutex for his personal use to deal with his addiction. These are serious offences, but after careful consideration we are going to give the defendant what is clearly his last chance to conquer his addiction with the support of the Probation Department, the Alcohol & Drugs Service and his family, and we do so taking into account firstly the Crown's acceptance that these drugs were imported for his personal use and secondly, that he has already served the equivalent of a 6 months' sentence of imprisonment. However, in addition to the Probation Orders and Treatment Orders, he must undertake Community Service to mark the seriousness of the offences, the number of hours being reduced to take into account the time already served. 9. On Count 1 you are sentenced to 90 hours' Community Service, which is equivalent to 3 months' imprisonment. On Count 2; 180 hours' Community Service, which is equivalent to 12 months' imprisonment. And for the Breach, 40 hours' Community Service, which is the equivalent of 1 month's imprisonment, all of which will be served concurrently. This makes a total Community Service of 180 hours, which is the equivalent of 12 months' imprisonment. 10. In addition we impose a Probation Order in relation to Counts 1 and 2 for 12 months, concurrently on the usual terms and conditions, but in addition that you do comply with the plan of the Probation Department set out in paragraph 21 of the social enquiry report and also on condition that firstly you attend the Alcohol & Drugs Service for a period of 1 year; secondly that you abstain from all illegal and non-prescribed opiates, which will be confirmed by random and routine drug tests and thirdly, that you will comply with the treatment goals agreed with the Alcohol & Drugs Service, which may involve taking naltrexone, the opiate blocking medication. 11. Finally we order the forfeiture and destruction of the drugs. Authorities AG-v-Trachant

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