

JERSEY / JUDGMENT

AG v Evans and Le Maisrre

[2003] JRC 081A (15 May 2003)

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JUDGMENT

THE BAILIFF: 1. This is an application by Henry Samuel Evans that a separate trial should take place on counts 1 and 2, on the one hand, and on counts 3 and 4 on the other. The effect of such separate trials would be, effectively, to segregate the events that are alleged to have occurred at Journeaux Court from the events that are alleged to have occurred at the builders yard in St. Peter. 2. It is common ground between the prosecution and the defence that the charges are part of a series of offences of the same or a similar character, so that pursuant to Rule 3 of the Indictments (Jersey) Rules, 1972 the charges are properly joined in the same indictment. However, notwithstanding the proper joinder of the counts, I have a discretion under Rule 6(2) of the 1972 Rules to sever the indictment: "Where, before trial, or at any stage of a trial, the Court is of opinion that an accused person may be prejudiced or embarrassed in his defence by reason of being charged with more than one offence in the same indictment or that for any other reason it is desirable to direct that the person should be tried separately for any one or more offences charged in an indictment, the Court may order a separate trial of any count or counts of such indictment." 3. Miss Benest, for the accused, submits that I should exercise this discretion to sever the indictment. She relies particularly upon a recent judgment of this Court in AG -v- McLees (10 th January

2000) Jersey Unreported; [2000/2], where the Court ordered separate trials of offences alleging the possession of cannabis with intent to supply in two different places. 4. The basis of the decision appears to have been that the trial judge was not satisfied that the similar fact evidence was so compelling that a trial of all the counts together was justified. Counsel for the prosecution in this case submits that McLees was probably wrongly decided but that, in any event, this is not a similar facts type of case but is a case where the evidence on the first set of offences is directly relevant to the offence on the second set of offences. Counsel submits that one set of offences is probative of the other and that evidence should therefore be admissible of one in relation to the other. 5. The prosecution case is, as I understand it, that the accused collected a quantity of cannabis from the builder's yard and drove with the cannabis to a meeting place with his co-accused in Journeaux Court. At that meeting place the cannabis was handed over to the co-accused. The evidence in relation to both sets of offences is, on the prosecution's submission, closely intertwined. I need not

itemise the other pieces of evidence which, on the prosecution case, ties these counts together. 6. The defence also submits that there is another reason for ordering separate trials and that is that the quantity of drugs in relation to the Journeaux Court offences was much smaller than the quantity of drugs involved in the building store set of offences. Counsel therefore submits that there is a risk that the sheer volume of drugs found at the builder's store might provoke a hostile reaction from the Jurats because of the scandalous nature of the charges involved in counts 3 and 4. 7. I have taken all these submissions into consideration but have reached the conclusion that there is no reason why I should order separate trials of the counts on the indictment. It seems to me, balancing the arguments of the defence with the arguments of the prosecution, that there is no undue prejudice to the accused in ordering that the counts be tried together and I therefore, in the exercise of my discretion, decline to accede to the application made by the counsel for the accused. Mr Evans, you are remanded on the same terms to stand your trial on 27 th May 2003. Authorities Indictments (Jersey) Rules 1972. AG -v- McLees (10 th January 2000) Jersey Unreported; [2000/2] Ludlow -v- Metropolitan Police Commissioner (1971) AC 421. R -v- McGlinchey

(1983) 78 Cr. App. R . 282 C. A. R -v- Wells (1988) 92 Cr. App . R.24 C. A. Page Last Updated: 23 Jun 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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