

JERSEY / JUDGMENT

AG v Freitas [2022] JRC 252 (14 November 2022)

[2022] JRC 252

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JUDGMENT

THE BAILIFF: 1. You are to be sentenced today for possession of MDMA and cannabis with intent to supply and for possession of cannabis and LSD. You were in possession of approximately 500 grams of cannabis and 150 tablets of MDMA and a further 4.74 grams of cannabis resin and 5 tabs of LSD were located in your home. 2. We do not need to refer to the facts of this case in any great detail as they have been fully set out by the Crown in the summary that has been read out in open court. The drugs came to light as a result of the execution of a search warrant at your home on 20th January where the drugs were found. 3. An analysis of your mobile phone contained messages which clearly related to the supply of drugs and there was also a document on your iPhone containing a list of names and figures which, so expert evidence suggests, was typical of a deal list. 4. With regard to the first count on the Indictment the street value of the cannabis seized was between £9,000 and £11,000 and the street value of MDMA was £3,000 to £4,500. The LSD was £1,000 to £1,500. When interviewed under caution for the first time you generally made no comment except that you accepted that you used the cannabis on a daily basis to assist with knee pain and you also accepted using MDMA. You said the names on the telephone related to money you owed to other people. You said that you got into debt because you got in with the wrong crowd and had turned to drug dealing to make money to pay back the debts which amount to some £7,000. In your second interview you confirmed you would normally use Facebook or Snapchat to arrange your deals. You had only been dealing in Class A for 4 weeks although you had always been on cannabis. 5. The Crown has correctly referred to us the case of *Bonnar v AG*

[2001] JLR 626 in which the Court of Appeal laid down sentencing guidelines in relation to Class A drugs in tablet or unit form. Those guidelines indicate a starting point of 7 to 9 years' imprisonment for 150 tablets. Where the Defendant fits within the bands set out in the case of *Bonnar* depends upon the weight of the drugs and the Defendant's role. In this case you were in possession of a commercial quantity of MDMA and it is also clear you have been involved in its supply to others. With regard to the possession with intent to supply of cannabis, sentencing guidelines have been laid down by the Court of Appeal in *Campbell v AG*

[1995] JLR 136 but they deal with larger quantities of drugs than the cannabis in this case. 6. You were 20 years of age at the time of your conviction and accordingly the Criminal Justice (Young Offenders) (Jersey) Law 2014 applies. The issue that we must consider, as correctly identified by the Crown, is whether the offending in this case is so serious that a non-custodial sentence cannot be justified. Whilst there is no doubt that the offending in this case is serious we note the substantial mitigation that is available to you. You are of good character with no previous convictions and you have the full benefit of an early guilty plea. We note from the Sentencing Report you are at a moderate risk of reconviction for reasons that have been referred to in open court by the Crown but there are positive factors as well as the negative ones identified in the Pre-Sentencing Report. We note the other mitigation which has been set out at length by your counsel and is contained in the papers before the Court. Specifically they are the letters of recommendation, your own letter of remorse, the reports that we have read in full and with care, the evidence with regard to your work ethic and the fact that you have worked to change your life around. We accept your expressions of remorse in this case are entirely genuine and it is not insignificant to us that you have had the strong support of your employer who has been present to support you in Court today. You are lucky to have someone to do that. 7. We have anxiously considered in this case whether or not it is possible to impose a non-custodial sentence and in this case, exceptionally, we conclude that we can. We first deal with the Attorney General's statement and declare you have benefited in the sum of £15,762.50 and make a Confiscation Order in the nominal sum of £1. 8. We take into account all the mitigation available to you which as we have said in our view is significant and we impose the following sentences: (i) At Count 1, possession with intent to supply MDMA, 456 hours of Community Service which equates to a 3 year sentence of imprisonment to be concluded over the period of 24 months. (ii) Count 2, possession with intent to supply cannabis, 150 hours of Community Service. (iii) Count 3, possession of LSD 50 hours of Community Service. (iv) Count 4, possession of cannabis, 50 hours of Community Service all to be conducted concurrently making a total of 456 hours of Community Service. We impose a Probation Order of 2 years duration. 9. We order the forfeiture and destruction of the drugs and the confiscation of the iPhone as an instrumentality in the offending. 10. Stand up please. Do you understand the sentence that the Court has imposed upon you? Let me tell you this. This was not in any sense a forgone conclusion. This was the product of anxious consideration by the Court and it was a risk in a sense that the Court is dealing with you on the basis of what you have told us and the good things that have been said about you. We think that you are at a turning point and we think that you have the chance to turn your life around and it is for that reason that we have gone the exceptional length of imposing a non-custodial sentence in connection with what is on any analysis a serious matter. You must step up and honour the undertakings and expressions of intent that you have given. Do not ever be here again. You had one chance and this was it. There will not be another chance you will never be able to again point to previous good character or anything like it. Do you understand? Very well. It is going to be exceptionally hard work. 456 hours of Community Service is not to be laughed away, it will make material inroads

into any free time you will have and it will happen over a protracted period. It will not be easy but you must do it and you must do all of the things that the Probation Officers advise and recommend you to do. We are concerned that there is a suggestion that you continue to take cannabis. That must stop, because if you are back on a cannabis charge you will have breached the orders that we have made and you will be liable to be sentenced again. Do you understand? Authorities Bonnar v AG

[2001] JLR 626 . Campbell v AG

[1995] JLR 136 . Criminal Justice (Young Offenders) (Jersey) Law 2014. AG v Allo

[2020] JRC 134 AG v Gill

[2018] JRC 196 Rimmer v AG

[2001] JLR 373 . Page Last Updated: 13 Dec 2022 Back to top About JLIB Accessibility Contacts Disclaimer Feedback Privacy policy Site map © Jersey Legal Information Board 2001- This website is not compatible with your web browser. You should install a newer browser . If you live in Jersey and need help upgrading call the States of Jersey web team on 440099. BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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