

JERSEY / JUDGMENT

AG -v- Fry [2009] JRC 115 (08 June 2009)

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JUDGMENT

THE commissioner: 1. The defendant has pleaded guilty to possession of 16 ecstasy tablets with a street value of £160 with intent to supply, at cost, amongst his social set of friends. He was in possession of 310 grams of cannabis resin with a street value of £1,710 with intent to supply on a commercial basis and possession of a small quantity of cocaine with no street value. He has also pleaded guilty to driving with an alcohol concentration above the prescribed limit. 2. The defendant admitted to being a recreational user of cannabis and ecstasy and a heavy user of cocaine. He did not co-operate with the Police in interview and guilty pleas were not entered on an acceptable basis until a relatively late stage in the Court proceedings, i.e. after arraignment and a pre-trial directions hearing. The sum of £4,661.23 in cash was seized from him. 3. Applying *Bonnar-v-AG*

[2001] JLR 626 the Crown move for a starting point of 7 years for the ecstasy count (count 2) reduced to 3 years to take into account all available mitigation. The quantity of cannabis is below the lowest bracket in *Campbell-v-AG*

[1995] JLR 136 and in light of *AG-v-Channing*

[2004] JRC 188 which involved cannabis of a similar amount, the Crown seeks a concurrent sentence of 12 months' imprisonment (count 4). The Crown seeks 2 weeks' imprisonment, concurrent in relation to count 5 and no additional penalty for the driving offence other than a 15 month disqualification. 4. The defendant has had a good upbringing. He has good accommodation, stable relationships and a supporting employer. Yet he has jeopardised all of this through substance misuse. 5. The Probation Department have recommended an 18 month probation order and a lengthy period of community service. They point out that whilst the defendant has previous convictions for drugs offences, none involve supply and it is his first appearance before the Royal Court. 6. Mr Cadin concedes that there can be no criticism of the conclusions of the Crown but he submits that there is an exceptional factor here which we should take into account and that is that immediately after your arrest and before your appearance before the Magistrate's Court and before legal advice, you attended voluntarily before the Alcohol and Drugs Service and you have turned your life round by becoming drugs-free; that has been confirmed to us by the Alcohol and Drugs Service who have subjected you to regular testing. 7. After much thought and consideration, we agree that this is an exceptional factor and something we

should encourage. Furthermore, we note you have the loyal support of your long-standing employer who has provided a very good reference. We accept that your involvement in the drugs trade was caused by your own habit and that we can, exceptionally, on the particular facts of this case and taking into account all the mitigation before us, consider the direct alternative to imprisonment, namely community service. Mr Cadin rightly points out that community service is not a soft option. It is work that has to be properly done over a considerable period of time, in the knowledge that any breach will render you liable to be brought back before this Court where you will face a prison sentence, potentially with no credit for what you may have done in the interim. It constitutes a genuine and valuable contribution to the community for the offences that you have committed. However, to mark the seriousness of the offences which you have pleaded guilty to, you will be sentenced to a lengthy period of community service. 8. You will therefore be sentenced as follows; on count 2; 456 hours community service which is the equivalent of 3 years' imprisonment, you will also be placed on probation for 2 years subject to the usual conditions that you must do whatever the probation office direct you to do, attending courses and programmes as they shall direct, but in particular, on condition firstly that you will remain free of all illegal substances for the duration of that probation order. Secondly, that you will submit to random testing for illegal drugs by the Alcohol and Drug Service. On count 4; you will be sentenced to 150 hours' community service which is the equivalent to 9 months' imprisonment and you will also serve a probation period of 2 years on the same terms that I have already gone through, concurrent. On count 5; you will be sentenced to 40 hours' community service which is the equivalent of 2 weeks' imprisonment and again, a sentence to a 2 year probation period on the same conditions. All of the community service must be completed within 24 months. On the Second Indictment you will be fined £500 or 2 weeks' imprisonment in default and you have 14 weeks in which to pay that fine. You will be disqualified from driving for 15 months from the 15 th May, 2009, and from the end of that period until you have passed the prescribed test. Thus in total you are sentenced to 456 hours' community service which is the equivalent of 3 years' imprisonment, to probation for 2 years on the conditions which I have just been through, a fine of £500 and to a disqualification of 15 months from the th May, 2009. 9. We order the forfeiture and destruction of the drugs. 10. Mr Fry, we hope that you understand the exceptional nature of the order that has been made today. It is not an easy option, you have got 2 years' of community service, a very substantial number of hours which you have to comply with and complete. If you do not, you will be back before us where you will undoubtedly be sent to prison. 11. Costs are refused. Authorities Bonnar -v-AG

[2001] JLR 626 . Campbell-v-AG

[1995] JLR 136 . AG-v-Channing

[2004] JRC 188 . AG-v-Doublet

[2003] JRC 205 . AG-v-Holley

[2003] JRC 063 . Valler -v-AG

[2002] JLR 383 . Page Last Updated: 29 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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