

JERSEY / JUDGMENT

AG v Howe 22-Dec-2020 [2020] JRC 268 (22 December 2020)

[2020] JRC 268

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JUDGMENT

THE COMMISSIONER: 1. Mr Howe, the Court has been out for quite sometime considering this case as you will appreciate. Over a period of some 21 months you have made a series of importations of Class A and Class C drugs. They were partly done personally and partly done by postal importations and in each case the importations were for personal use. There were some 30 separate orders made. The total quantities of drugs involved 54.546 grams of methylamphetamine, between 1 and 2 grams of cocaine, an indeterminate quantity of diazepam tablets and of a small quantities of Class C drugs. 2. The most significant of these offences, by weight of drugs, are the methylamphetamine counts on the Indictment which are Counts 1, 7 and 9 and we are going to take those first. Because of the quantity of drugs involved the Court is guided by the guidelines set down in the case of *Rimmer v AG*

[2001] JLR 373 and we see that the drugs in this case take us to a starting point of between 9 and 11 years' imprisonment. We think that 9 years is the right starting point. 3. We have taken account of the mitigation which has been very admirably put forward by Advocate Preston on your behalf, and also the Social Enquiry Report and we have considered Dr Engelbrecht's report as well. Just dealing with that mitigation in particular we think that you are entitled to have a full discount for the guilty plea. The fact that you gave your PIN number on the mobile telephone that you have certainly enabled the police to carry out a fuller investigation of the offending and it is illustrative of the remorse which you have and which we have seen in the letter which you have sent to us, and of course we have regard also to the many references which you have put before the Court. 4. It is not a mechanical exercise to look at sentencing but if we take account of that one third discount for the guilty plea that takes one down to 6 years' imprisonment from the starting point of 9 and we have then looked at other items of mitigation which are particularly available. The fact that you imported these drugs for personal use is a significant part of the mitigation and it is absolutely right that because you were not dealing in the drugs yourself by passing them on to other people that stands, as it were, to your credit. The only other side of that equation which we take into account is that your behaviour by importing the drugs even for your own use, fuels the demand for these drugs in the marketplace generally. But you are absolutely entitled, as Advocate Preston said, to significant credit for the fact that this

was an importation for personal use. 5. We have also taken account of the fact that you have suffered personally from your own behaviour, but we balance that by thinking that, of course, many people who are in this position have suffered from their own behaviour as well. You have turned your life around since being stopped by Customs in September last year, and I really do not want to under emphasise to you how much the Court takes that into account and gives you credit for it. We respect you for taking control back of your own life, and that is an important feature of mitigation which we take into account. 6. Nonetheless, having had regard to all these things we cannot see that it is appropriate that the offending on Counts 1, 7 and 9 can lead us to a sentence of less than 4 years' imprisonment, and that is the sentence which we are therefore going to impose on those three counts. In relation to the other counts the most significant is the cocaine importation and we think that, having regard to the nearly 2 grams of cocaine imported, the right sentence is 3 years' imprisonment on Counts 2 and 8 which would run concurrently, and in relation to Counts 3 and 5 we think 6 months' imprisonment is correct, and in relation to Counts 6 and 10 that 3 months' imprisonment is correct. All these sentences will run concurrently making a total of 4 years' imprisonment. 7. We order the forfeiture and destruction of the drugs. 8. You are sentenced accordingly. 9. As I say, we have very much respect for your efforts to get past your addiction and actually we hope that the time that you will spend in custody will enable you to ensure that you have beaten that addiction in the future. Authorities *Rimmer v AG*

[2001] JLR 373 *Valler v AG*

[2002] JLR 383 *AG v Gaish*

[2006] JRC 109 *AG v Whitcombe*

[2014] JRC 173 *AG v Duffy*

[2016] JRC 096 Page Last Updated: 18 Jan 2021 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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