

JERSEY / JUDGMENT

AG -v- Huish [2014] JRC 194 (10 October 2014)

[2014] JRC 194

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JUDGMENT

THE BAILIFF: 1. You were found in possession of a total of 76 grams of a new psychoactive substance known as mephedrone, which had a potential street value of some £4,500. You also had a very small amount of ecstasy, three immature cannabis plants and a trace of cannabis resin at your home. You pleaded guilty to possession with intent to supply on the basis that up to half the mephedrone was for social supply, in other words supply to your friends. 2. The Court wishes to restate that NPS' are potentially dangerous because there is no way of knowing in advance what chemicals are in them and what effect they may have. 3. The Crown has moved for a non-custodial sentence despite the fact that you have previous convictions for possession of drugs. The Crown has felt constrained to do that because non-custodial sentences were imposed in the cases of AG-v-Fage

[2014] JRC 114 , AG-v-Crabtree

[2013] JRC 196 , AG-v-L'Enfant

[2013] JRC 169 , AG-v-Moody

[2012] JRC 183 , AG-v-Sanguy

[2012] JRC 170A and AG-v-Diogo

[2014] JRC 153 all of which related to NPS drugs and in some cases the amounts were greater than in this case. It is always difficult to compare the facts of one case with another and there may well have been special factors in some of those cases; certainly youth appears to have been a factor in some. 4. Nevertheless the Court's policy on the importation and supply of drugs is well-established. We repeat what we said in Sanguy . "The policy of this Court is well established in relation to the importation/supply of drugs. It is that a prison sentence will almost invariably follow. But the Court has made exceptions in respect of Class B drugs where comparatively small amounts are involved and where there is exceptional mitigation." We have to say that it appears to us from the cases to which we have been referred that sentences in relations to NPS drugs are perhaps getting out of kilter with that sentencing policy in relation to other Class B drugs, because a non-custodial sentence

seems to have been imposed on a regular basis save where the amounts are large. 5. We wish to do two things as a result of having these matters drawn to our attention. First, we are asking the Attorney General to carry out a review of the approach of the Crown and of the sentencing levels in relation to NPS drugs and to find a suitable case to bring the matter back before the Court, perhaps for reference to the Superior Number for careful consideration even if it is in a matter where the sentence will be below the Superior Number's jurisdiction. We think we would benefit from expert reports and advice as to the potential dangers of these drugs, their prevalence and other matters. 6. Secondly, and in the meantime, we reiterate the policy which is that for the importation or the supply or possession with intent to supply of Class B drugs a custodial sentence is the likely result and we say that in future the Court will be applying that policy in relation to NPS drugs to the same extent as it does in relation to all other Class B drugs. 7. Now reverting to this case, we have taken into account the defendant's guilty plea, the references which we have seen, his generally good work record, the fact that he has realised that he has a drug problem and is voluntarily attending now at Alcohol and Drugs, and the fact that he also has the support of his family which is important. In all the circumstances, given the other cases and given the facts of this particular case, we are going to agree with the conclusions of the Crown whilst making it clear that this may not be the approach in future. 8. On Count 1; 90 hours' Community Service, on Count 2; 180 hours' Community Service with a 12 month Probation Order, concurrent, on Count 3; 100 hours' Community Service and on the extra Indictment; 40 hours' Community Service, all of those to be concurrent; so that is 180 hours' Community Service in all, which we say is the equivalent to a 12 month imprisonment sentence, and there is also therefore the 12 month Probation Order. 9. We also order the forfeiture and destruction of the drugs. 10. Mr Huish it is very important that you adhere to the community service and the probation. You must realise that if you do not, if you do not turn up or you do not work hard or if you do not do what the probation officer tells you, or of course, if you reoffend, then you will be brought back and at that stage, as I said, a prison sentence would seem to be the only option so it is very important that you comply with these orders fully and you do not reoffend in the meantime. Authorities AG-v-Fage

[2014] JRC 114 . AG-v-Crabtree

[2013] JRC 196 . AG-v-L'Enfant

[2013] JRC 169 . AG-v-Moody

[2012] JRC 183 . AG-v-Sanguy

[2012] JRC 170A . AG-v-Diogo

[2014] JRC 153 . AG-v-Dryden

[2014] JRC 172 AG-v-Buesnel

[1996] JLR 265 . AG-v-Allardice and Humphrys

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Prepared on 29 October 2026 · Esheria