

JERSEY / JUDGMENT

AG v Islam and Chowdhury

COURT

ROYAL COURT

BEFORE

M.C. St. J. Birt, Deputy Bailiff, and Jurats
Le Ruez, Potter, Quérée, Bullen, Allo, Clapham.
The Attorney General

-v-

Mohammed Tajul Islam;
Mohammed Ashak Miah Chowdhury.
Mohammed Tajul Islam

1 count of:

Being knowingly concerned in the fraudulent
evasion of the prohibition on the importation of a controlled drug, contrary
to Article 61 (2)(b) of the Customs and Excise (Jersey)

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ROYAL COURT

(Samedi Division)

14th May 2002

Before:

M.C. St. J. Birt, Deputy Bailiff, and Jurats
Le Ruez, Potter, Quérée, Bullen, Allo, Clapham.
The Attorney General

-v-

Mohammed Tajul Islam;
Mohammed Ashak Miah Chowdhury.
Mohammed Tajul Islam

1 count of:

Being knowingly concerned in the fraudulent
evasion of the prohibition on the importation of a controlled drug, contrary
to Article 61 (2)(b) of the Customs and Excise (Jersey)

Law 1999:

Count 1: cocaine.
Age: 38
Plea: Guilty.

Details of Offence:	The defendants were stopped as they passed through Jersey Airport. Chowdhury was found to have five packages, containing 69.21 grams of crack cocaine concealed about his person. Islam had 41.6 grams of crack cocaine concealed internally.
Details of Mitigation:	Neither accused had any previous convictions. Islam claimed that he was to be paid £1,000 for his role and that he agreed to participate as he was in debt. Chowdhury appeared to have played a lesser part in the transaction, agreeing to participate as he was desperate to raise funds to help his mother in Bangladesh receive medical treatment for cancer. He had previously lost his brother to cancer. Islam provided information to the Police concerning the identity of a person alleged to be involved in the drugs trade in Jersey and this fact was acknowledged in open Court.
Conclusions:	
Count 1:	4 years' imprisonment, starting point 9 years; Deportation recommended.
Sentence and Observations of Court:	
Count 1:	3 1/2 years' imprisonment; Deportation recommended. The Court approved starting points of nine years in both cases. Although Islam imported a lesser amount than Chowdhury his involvement in the transaction was slightly greater. A full one third discount for a plea of guilty was not appropriate but the Court reduced the Crown's conclusions by a further six months to reflect the acknowledgment in open Court that Islam had provided the name of a supplier to the authorities. In relation to Chowdhury the full one third credit would not be given for the plea of guilty. However, Chowdhury's family circumstances, his lack of previous involvement and his extreme remorse allowed the Court to grant a slightly greater reduction than had been allowed by the Crown. Mohammed Ashak Miah Chowdhury 1 count of: Being knowingly concerned in the fraudulent evasion of the prohibition on the importation of a controlled drug, contrary to Article 61 (2)(b) of the Customs and Excise (Jersey)
Law 1999:	Count 2: cocaine. Age: 37 Plea: Guilty
Details of Offence:	See Islam.
Details of Mitigation:	See Islam.

Conclusions:

Count 2: 6 years' imprisonment, starting point
9 years; Deportation recommended.

Sentence and Observations of Court:

Count 2: 5 years' imprisonment; Deportation recommended.
See Islam.
A. R. Binnington, Esq., Crown Advocate.
Advocate J.C. Gollop for M.T. Islam.
Advocate C.M. Fogarty for M.A.M. Chowdhury.

JUDGMENT

THE DEPUTY BAILIFF: 1. These two defendants both agreed to import crack cocaine to Jersey for reward. Chowdhury imported 69 grams worth nearly £8,000 in five packages concealed in his shoes, socks and underpants. Islam imported 41.6 grams, with a retail value of £4,785, concealed internally. Crack cocaine is a pernicious drug with very addictive qualities. It is a serious matter to import such a drug into the island. 2. We must consider, first, the starting point. Chowdhury falls within the band of nine to eleven years' for amounts of between 50 and 100 grams. We agree with the Crown that, in view of the amount and the nature and level of his involvement, a starting point of nine years' is correct. Islam imported a lesser amount and falls within the eight to ten year bracket for amounts of 20 to 50 grams. The amount is towards the higher end and, having regard to the nature and level of his involvement and the slightly greater level of sophistication shown, we think that the same starting point is correct for him. 3. We turn now to consider the mitigation, first for Islam. He has pleaded guilty, but in the circumstances a full one third is not appropriate. He is a man of previous good character. Most particularly, he has shown a high level of co-operation. He has given the name of his supplier to the authorities and has acknowledged this in open Court. The confusion over the name is not to be held against him. He has been attacked in prison. The information is not as detailed as in some cases, but, nevertheless, anyone who gives useful information to the police and acknowledges this in open Court will be treated much more leniently by this Court than would otherwise have been the case. All in all, to reflect this co-operation and the other mitigation we think the conclusions can be reduced by 6 months. 4. The sentence on the count which you face, Islam, is one of three and a half years' imprisonment. We have also considered the question of deportation. We have no doubt that your presence in the island is detrimental to the community. The defendant has worked in Jersey for some fifteen months, but he has no family here. He does have a wife and four children in England. It will be a matter for the United Kingdom authorities to decide whether they exercise their power to disapply any deportation order which we might make in so far as concerns the United Kingdom. As for Jersey, there are no family or other reasons for not making a deportation order and, accordingly, we will make a recommendation that he be deported at the conclusion of his sentence. 5. We turn now to consider Chowdhury. He too has pleaded guilty but, again, is not entitled to a full one third credit. He too has good character. In his case there is particularly

powerful mitigation arising out of the circumstances in which the offence was committed. For many years Chowdhury has been sending money to his extended family in Bangladesh. He learned, shortly before this offence was committed that his mother is ill with cancer. He had lost a brother many years earlier to that disease and he was desperate to find funds to send home so that she could receive medical treatment. He explored every possible avenue but with no success. Eventually it was suggested to him that he could earn money by undertaking a drug run to Jersey. He has had no previous involvement with drugs, but in these particular circumstances he succumbed to temptation in order to raise money for his mother. It is clear to us that he is now extremely remorseful. 6. In all the circumstances, this is rather more powerful mitigation than is usually available in such cases and we therefore consider that a slightly greater discount for the mitigation can be given than was suggested by the Crown. The sentence of the Court is one of five years' imprisonment. As to deportation, we again consider that the defendant's presence in Jersey would be detrimental to the community. He has no connection with Jersey, but has one son in the United Kingdom, whom he has not seen for two years. Again, it would be a matter for the United Kingdom authorities to decide whether to disapply any order, in so far as concerns United Kingdom. In Jersey, we see no reason not to make an order and we therefore recommend that he be deported at the conclusion of his sentence and we order the forfeiture and destruction of the drugs. Authorities Campbell and Ors. –v- AG (1995) JLR 136 CofA. Rimmer and Ors. –v- AG [2001] JLR 373 CofA. R –v- Nazari (1980) 3 All ER 880. Immigration Act 1971: ss. 3(6), 6(2).

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