

JERSEY / JUDGMENT

AG -v- Lavelle [2005] JRC 092 (06 July 2005)

[2005] JRC 092

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JUDGMENT

THE DEPUTY BAILIFF: 1. On 10 th March, 2005, this defendant attempted to bring controlled drugs into the Island. He had 11.61 grams of heroin, 102 tablets of ecstasy and a small personal amount of cannabis concealed internally. Fortunately he was stopped on his arrival in the Island. 2. He is a heroin addict and he says that he was threatened by his dealers into undertaking this drug run. However, the Court has repeatedly said that those who purchase drugs and get into debt as a result cannot use in mitigation the fact that they are subsequently cajoled or threatened into undertaking criminal activities. 3. The first point we must consider is the starting point. The Crown says we should take 9 years together with one year, under the Valler principle (Valler -v- Attorney General [2002]JLR383) for the ecstasy, making a total starting point of 10 years. 4. Three Jurats would agree with the Crown's starting point for the reasons which the Crown has given. Three Jurats on the other hand consider that for the 41 grams an appropriate starting point is 8½ years, and that in this particular case the uplift under the Valler principle ought to be one of 6 months' making a starting point of 9 years. By way of check, they compare that with the next bracket in the Rimmer guidelines, which for 50 grams upwards has a starting point of 9 years upwards and they would say that the current situation is broadly similar to a person who imports 50 grams of heroin as a courier. I agree with the latter three Jurats and therefore the Court takes a starting point of 9 years. 5. In mitigation there is the guilty plea that was made early, as Miss Juste says, and that stands the defendant in good stead, but conversely it was really inevitable given that these drugs were concealed internally. 6. The defendant has a very poor record. It is true that there are no drug convictions, but he has committed many offences in order to fund his long standing heroin habit. We take into account the efforts he has made in prison to try and combat his addiction and the other matters about his possible future to which Miss Juste has referred. We further take into account the other matters she has mentioned, including the Social Enquiry Report, and indeed all the mitigation which appears on the papers before us. 7. Nevertheless notwithstanding that the Court is varying the starting point, the Court is unanimous in its view that 4 years would be a sufficient deduction to reflect all the available mitigation; accordingly the ultimate sentence is not varied. 8. On count 1 the sentence is 5 years' imprisonment; on count 2, 4 years' imprisonment, (although the starting point on that if it were relevant would be 7 years); and on Count 3, 6 months' imprisonment, all of those concurrent, making a total of 5 years' imprisonment in all and we order the forfeiture and destruction of the drugs. Authorities Valler -v- A. G. [2002]JLR383. Rimmer Lusk & Bade -v- AG [2001]JLR.373 Page Last Updated: 18 Aug 2015

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