

JERSEY / JUDGMENT

AG -v- Lusk [2015] JRC 015 (23 January 2015)

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JUDGMENT

THE commissioner: 1. The defendant stands to be sentenced for one count of possession of 40 ecstasy tablets with intent to supply; this offence was committed in breach of a 9 month Probation Order imposed on 25 th February, 2014, for common assault. The Crown accept that the defendant was, effectively, a temporary custodian of the drugs, having come into possession of them unexpectedly, finding that they had been delivered through the letter box of her address at First Tower, and being in the process of delivering them to an acquaintance who she named to the police. The police have found no evidence to suggest the defendant stood to profit from her handling of these drugs. Despite her guilty plea and the provisions of Article 4(2)(c) of the Criminal Justice (Young Offenders)(Jersey) Law 1994 which apply to her, the Crown have reached the view that a sentence of 24 months' youth detention should be imposed. 2. The Probation Department assess the risk of reconviction within one year as high but they say this at paragraph 39, which we feel encapsulates the background very succinctly for this defendant:- "39 This is due to offences committed at a young age (including violence) tragic, complex, chaotic family relationships, throughout which the thread of addiction runs on both sides of the family, unsatisfactory accommodation amongst the family from which the defendant finds it hard to escape, lack of employment which in turn engenders financial restrictions, lack of structured activities, use of legal and (around the time of the offence) illegal drugs, and negative peer group influence including that of close personal relationships." But they go on to say there are positive factors in relation to the defendant; they describe her as having a generally strong disposition, of being aware of the difference between right and wrong, her positive influence of some of the younger members of her family, her predisposition to obtain employment, and her pleasant demeanour. 3. In terms of mitigation, the defendant has pleaded guilty and she was only 18 at the time of the offence. Notwithstanding being in breach of the probation, the order continued and she did complete it. We have considered the mitigation ably put forward by Advocate Grace and we conclude that the defendant's minimal involvement in the drugs trade do not render the offence so serious that a custodial sentence cannot be avoided. The provisions of the Young Offenders Law do permit us therefore to depart from the guidance laid down in the guideline case of Bonnar and Noon-v-AG

[2011] JLR 626. 4. On Count 1 you are therefore sentenced to serve 312 hours' of community service, which is the equivalent to 24 months' youth detention. In terms of the breach of the Probation Order, there will be no separate penalty. We are also going to impose a probation Order of 1 year in relation to Count 1. 5. Finally we order the forfeiture and destruction of the drugs. 6. We must just warn you that you must complete the 312 hours' of community service; if you fail to do so you will be brought back to this Court and almost certainly find yourself sentenced to youth detention. The same point applies in relation to the Probation Order. You must comply with that order, as you did indeed on the last occasion, and, again if you fail to do so, you will be brought back before us. Authorities Criminal Justice (Young Offenders)(Jersey) Law 1994. Bonnar and Noon-v-AG

[2001] JLR 626 . AG v Ferreira 2002/238. AG v Richards

[2011] JRC 170 . AG v Koradi

[2014] JRC 073 . Page Last Updated: 27 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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