

JERSEY / JUDGMENT

AG v MacDonald [2005]

JRC 004 (12 January 2005)

[2005] JRC 004

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JUDGMENT

THE DEPUTY BAILIFF: 1. McDonald, you have admitted supplying about 4.2 kilos of cannabis over 9 months. In addition, on the day of your arrest, you were in possession of 856 grams of cannabis and 15 ecstasy tablets which was the balance of 20 which you bought with the intention of selling them. So in all we are talking about 20 ecstasy tablets and about 5 kilos of cannabis. 2. The Crown have suggested that if the counts stood alone the starting point for the ecstasy charges would be 7 years, and for the cannabis charges 4 years; and we agree with that. There is an unusual difficulty in this case in relation to the starting points, because in relation to Count 6, which was the supply of the 4.2 kilos cannabis over a period, you wrote your own indictment. In other words you told the police about this when they would not have otherwise known about it and, therefore, would have been unable to charge you. That is something which entitles you to extra mitigation above and beyond the usual discount for a guilty plea. 3. The Crown has suggested that we should apply the case of A. G. -v- Valler [2002 JLR Note 14] and, because of the existence of two sets of drugs, increase the starting point to 8 years. If we were to do that, but then only apply the additional mitigation for writing your own indictment against count 6, the cannabis count, you would in fact receive no real tangible benefit for writing your own indictment. 4. It seems to us there are two ways of dealing with this. First, we could decide not to apply Valler in the particular circumstances of this case, in which case we would then apply the extra mitigation against the cannabis charge only. The alternative is to apply Valler but then apply the extra mitigation for writing your own indictment, against the more serious count, the ecstasy count, even though it was in fact in relation to the cannabis count that you wrote your own indictment. It may not be logical but we do not see a logical way of dealing with this issue, and we think the latter way is the most practical way of resolving it; accordingly, that is what we do. 5. We therefore apply Valler and increase the starting point to 8 years. However, in mitigation we take account of your guilty plea, the fact that you have a very minor record which does not include any drug offences, your good work record, the good references which we have read, the circumstances in which these offences were committed, namely that you had lost your job through injury and began dealing because you were taking more drugs and running short of income, and most importantly, the fact that you wrote your own indictment. Nevertheless, we think that, from a starting point of 8 years, by reducing the overall conclusions to 4 years, the

Crown have allowed for all these factors and we are therefore going to grant them but we are going to make certain adjustments to some of the Counts. 6. Count 1, 4 years; Count 2, 4 years; Count 3, 1 year; Count 4, 18 months; Count 5, 6 months and Count 6, 2½ years, where the Crown had moved for 4 years but that, of course, was their starting point; they have therefore allowed no mitigation at all and that cannot be right. All of those sentences are to be concurrent and therefore the aggregate sentence is 4 years. We order the forfeiture and destruction of the drugs. Authorities Bonnar and Noon -v- A. G. [2001 JLR 626]. A. G. -v- Valler [2002 JLR Note 14]. Campbell & Ors -v- A. G. [1995 JLR 136]. Page Last Updated: 15 Oct 2015 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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