

JERSEY / JUDGMENT

AG -v- McCormack [2016]

JRC 083 (14 April 2016)

[2016] JRC 083

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JUDGMENT

THE commissioner: 1. It is very disappointing to see you before the Court. You are a man with no previous convictions at the age of 41, you have an excellent work record, having been with the same firm of electricians for some 16 years, and indeed you have been holding a responsible position in that firm. Sadly, you have a cocaine habit which escalated after your father's death and resulted in your incurring a drug debt of some £3,000 to your supplier. In exchange for the cancellation of that debt you agreed to bring some cannabis to Jersey in your car. 2. When the Court read the papers and given your financial position, we wondered why you had not repaid the debt but Advocate Gollop explained that you had tried to do so but that you had not, in effect, been allowed to and they had insisted on your performing this service. Given how truthful you have been in every other way and how that has been verified through the various text messages on your phone and other information, we accept your version that that is what happened. 3. Fortunately you were stopped at the harbour and it was discovered that there was a total of some 28.5 kilos of cannabis which had been concealed in the car by those who arranged the importation. You had given them your car and they had undertaken the hiding of the drug. 4. So the Court accepts that you were simply a courier who undertook this drug run to try and clear your debt. We also accept that at the time you were in touch with Cocaine Anonymous and others to try and deal with your problem and that this was, in effect, your attempt to deal with the last outstanding aspect of that drug problem. However, the fact that you undertook the run to pay off a drug debt is not a mitigating factor. Given the amount of cannabis and applying the guidelines in Campbell and Ors

[1995] JLR 136 we agree with the Crown that, as accepted by your advocate, the starting point must be one of 9 years. But then we turn to the mitigation which your advocate has put forward with considerable eloquence. (i) Firstly, there is your extremely early guilty plea, you did it at the first opportunity and you had made immediate and frank admissions upon the drug being found; (ii) Secondly, you are a man of good character in the sense that you have no previous convictions, but; (iii) Thirdly, it goes far further than that. Sometimes people come before the Court with no previous convictions but there is not much else to be said in their favour. You on the other hand have many excellent character references from a wide variety of people, which shows that there is a very positive side to your

character, including the fact that you help look after your child and we have read the reference from the mother of the child from whom you are now separated, which shows that. It is also a testament to you that many members of your family and your employer have come over to support you here in court. You can count yourself very fortunate. You have, of course, let them all down. (iv) We accept that you are remorseful; that appears from the probation report and from your letter and we note the apology to the Island tendered by your advocate; (v) We note that the probation report says that you are at low risk of reoffending and from all we have read, we accept that that is so. 5. So putting all this together we think this is a very sad case and we think that there is exceptional mitigation. However, the fact remains that you imported this very substantial amount of cannabis and there can be no alternative to a substantial term of imprisonment for such an offence. Nevertheless we think we can, in fact, reduce the conclusions a little to take account of this exceptionally powerful mitigation. 6. The sentence of the Court is one of 4 years' imprisonment. 7. We also order the forfeiture and destruction of the drugs.

Authorities Campbell & ors v AG

[1995] JLR 136 . AG v Brown

[2008] JRC 208 . AG v Logan

[2015] JRC 113 . AG v Dos Santos

[2015] JRC 229 . AG v Gautier and Halais

[2015] JRC 262A . Page Last Updated: 12 May 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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