

JERSEY / JUDGMENT

AG v Murphy [2020] JRC 101 (02 June 2020)

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JUDGMENT

THE COMMISSIONER: 1. You have pleaded guilty to one count of importing MDMA in the quantity of 994.41 grams with a purity of 79% which, as the Crown says, is a significant commercial quantity. The circumstances were that you agreed to the request from a colleague of yours at work, or someone who had been a colleague at work, that the drugs could be sent to you by post and in fact you then collected them from the post office and they were found by the police in the boot of your car. 2. As is customary in these cases we have to assess the degree of your role and involvement in drug trafficking, and we are given guidance by our Court of Appeal in the case of Rimmer and Ors v AG

[2001] JLR 373 as to how we should go about that. Rimmer is authority for saying that in quantities of over 400 grams the starting point should be at least 14 years, and here we have double that quantity which we think ought to be reflected in the starting point which we apply in this case. 3. We have had regard to the limits of your role and involvement but it is to be remembered that by providing an address, collecting the parcel, holding it and being willing to pass it on to the organiser of the importation you played a very significant role in the importation itself. As has been said so many times before, drugs particularly Class A drugs wreck people's lives. Here the quantity involved is such that a number of lives could have been wrecked. That is why the drug sentencing regime is as strict as it is even when the offender is, as it is in this case and we accept that, someone who has made a single mistake, a very bad mistake, in what has otherwise been a blameless life; you have good character up to now. So we think the starting point is appropriately set at 15 years' imprisonment. We are not going to add anything to that for the purity of the drugs. We think 15 years is quite a high enough starting point in the circumstances of this case. 4. The question then is how much we reduce that for the purposes of mitigation and we say at once that all the items of mitigation which have been put to us by your counsel we think are well put and are items of mitigation we should take into account. So we accept your guilty plea and we give you full credit for that. We note your good character. We certainly have noted your own apology and remorse which we accept is completely genuine and we have noted the support and the references that have been put before us and generally your pro-social attitude in the community. All these are significant parts of the mitigation on which you can rely. 5. Most of all we accept and apply the comments which were made in this Court in the case of AG v Clamp Ellis and Ferreira

[2012] JRC 180 where the then Bailiff said this "6. ... once you pleaded guilty, you said that you were willing to give evidence against those who had organised the importation, and indeed you gave a witness statement to the police. The Crown Advocate has informed us that the Prosecution accept the genuineness of what you were saying and that we should regard it as being of substantial assistance at the same level as that offered by Ellis. The Court has said repeatedly that those who give overt assistance in this way are entitled to a substantial discount in sentence additional to the ordinary mitigation. 7. We would repeat what we said in the case of AG-v-Miah 2002/210 which is "that those who give information about drug dealers to the police, and acknowledge in open court that they have done so, will be given a substantial discount in their sentence." The Court wishes to encourage the provision of information to the police so that they can progress investigations against other people and we also wish to encourage an acknowledgement in open court where that assistance is given, so that others can be encouraged to behave in a similar way in the knowledge that a substantial discount in sentence will follow." In that case of AG v Clamp Ellis and Ferreira the Court allowed a discount of 2½ years in addition to the other mitigation which should go off the sentence. 6. The Crown Advocate tells us that in this case, although the statement which you made to the police has not, up to now, resulted in any action being taken, the statement is accepted as being genuine and we have taken that very much into account because making a public statement in Court stands very firmly to your credit. It is consistent with the remorse which you have demonstrated for what was a very bad mistake which you have made and that has to be balanced unfortunately against the quantity of drugs which are involved and the damage that could have been done to our island community. That makes cases like this very difficult. 7. In the circumstances we consider that the right sentence of imprisonment, having regard to all these factors is a sentence of 6 years' imprisonment and that is what we are going to impose in this case. 8. We also order the forfeiture and destruction of the drugs. Authorities Rimmer and Ors v AG

[2001] JLR 373 . AG v Clamp Ellis and Ferreira

[2012] JRC 180 . AG v Przyanek

[2019] JRC 216 AG v Cullen

[2019] JRC 244 Page Last Updated: 19 Jun 2020 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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