

JERSEY / JUDGMENT

AG v R [2022] JRC 174 (19 August 2022)

[2022] JRC 174

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JUDGMENT

THE BAILIFF: 1. You are to be sentenced today for two counts of possession of a controlled drug with intent to supply and two counts of possession. 2. We do not need to go into the facts in detail as we have been fully referred to them by the Crown in the statement of facts read out to us. In brief, though, officers executed a search warrant at your home address at which was located 26 MDMA tablets, 3.3g of cocaine, a wrap of 3.76g of cannabis resin and 103mg of MDMA. Officers also seized items which appeared to be associated with supplying controlled drugs and, in a different room, a further 10 tablets of MDMA were found. 3. You were arrested on that day and offered "no comment" interviews to all material questions. You declined to provide PIN numbers for your mobile phone or to sign any bank disclosure authorities. You ultimately did provide a PIN number, but that was after being served with a notice requiring you to do so, and the information obtained from the messaging system you were using, shows that you were sending messages associated with the supply of Class A drugs. 4. You were further interviewed concerning the data recovered from the phone and again, you offered "no comment" interviews to all material questions. You did, however, confirm that 103mg of the MDMA powder and the cannabis found were for your own personal use and that you are a regular cannabis smoker. You also stated the 3.3g of cocaine was for your personal use. 5. It could not be said then that you were fully cooperative with the police and the prosecution authorities, and we are asked by your counsel to take into account your youth and inexperience and the fact that you had taken advice which indicated that a no comment interview would not be held against you. We do take, in these circumstances, those factors into account. 6. The total value of the drugs seized were between £1,155.00 and £1,845.00. The amount of Class A drugs seized would put you at the bottom of the guidelines in *Rimmer & Ors v AG*

[2001] JLR 373 and we accordingly agree with the Crown's assessment of the appropriate starting point of 7 years' imprisonment. The 36 MDMA tablets fall within the guidelines of *Bonnar v AG*

[2001] JLR 626 and the Crown adopts a starting point of 7 years' imprisonment, with which we also agree. 7. With regard to the possession of cannabis, the Crown gives us an example of the personal use and possession of a small amounts of cannabis being met with a sentence of approximately 1 month's imprisonment, and that appears to us to be the appropriate range to consider. 8. You were 17 years old when the offences were committed, although

18 years' old at the time of conviction and you therefore benefit from the provisions of the Criminal Justice (Young Offenders) Jersey Law 2014. We have had the provisions of the Law read out to us by the Crown in conclusions and they are well known to the Court and these sentencing remarks would not benefit by their repetition, but we are obviously proceeding on the basis not only of that statute but also on its interpretation in the case of *Y v AG*

[2021] JRC 143 . 9. We note that you have no previous convictions for similar offences. You do not have a history of non-compliance with the Court or Community Service Orders, and we therefore proceed to consider whether the totality of your offending is so serious that a non-custodial sentence cannot be justified. 10. There is no doubt about it, that trafficking of Class A drugs is a serious offence and generally speaking this Court would have no hesitation to meet such offending with a period of custody. We think, however, that we can follow the Crown's recommendation and deal with this matter, in your case, by means of a non-custodial sentence. We have noted the contents of the pre-sentencing report and the challenges that you face and that give rise to a medium to high risk of reconviction within 12 months, but the report suggests that you are suitable for probation supervision and to commence a Community Service Order, and you have indicated your willingness to complete both of those things. 11. We treat you, as the Crown suggests, as a person of good character, and you have the benefit of early guilty pleas, although as we have said, you were not fully cooperative in your interview. 12. We deal first with the question of confiscation which we must deal with as a preliminary issue, and we make a declaration of benefit which is not opposed by you through your counsel, in the sum of £1,155.00 and we make a confiscation order in a nominal sum of £1. 13. We turn now to the matter of sentence. In all the circumstances, and taking in account the available mitigation which includes, in our view, your expressions of remorse set out in your letter and through counsel which we accept in your case to be genuine the references that you have received both as to character and as to work, the assurances you have given to us through counsel who has expressed your wishes for the future, and what we understand to be your work ethic and history, we are prepared to follow the conclusions of the Crown. You are sentenced with regard to Count 1, 180 hours' Community Service, equivalent to 12 months' Youth Detention and 12 month Probation Order. Count 2, 180 hours' Community Service, again, equivalent to 12 month's Youth Detention together with the 12 month Probation Order. Count 3, 40 hours' Community Service equivalent to 1 week Youth Detention. Count 4, 70 hours' Community Service equivalent to 2 months' Youth Detention. All of those to run concurrently with the sentence on Counts 1 and Counts 2, making a total of 180 hours' Community Service, the equivalent of a 12 month Youth Detention Order together with a 12 months' Probation Order. 14. We order the forfeiture and destruction of the drugs seized in this matter and the destruction of the iPhone, although with regard to the latter, we afford a 3 month delay for family photographs to be downloaded by the police on the provision to them, by you, of an appropriate memory stick so that those items of sentimental value can be retained. 15. That is the sentence of the Court. Let me explain

this to you very clearly. You have committed very serious offences and were it not for your youth and the other matters we have made reference to, you would be walking from here into a van and you would be going to prison. You do understand that don't you? And we have therefore given you a chance. There was some real discussion between us as to whether such a chance was appropriate because of the serious nature of the offending, so we tell you this. You must comply with the Probation Order. You must discharge your obligations under the Community Service Order and if you do not or you commit any further offences of this nature you will be back before Court and you will have squandered this chance. You will not get it again. Are you clear about that? We are taking at face value what your counsel has said and you have asked your counsel to say, we take at face value you wish to put this behind you, you wish to lead a pro-social and positive life, and you wish to change your relationship with unlawful drugs. We take that on trust, we hope we will not be disappointed. Please do not be back here again. Authorities Rimmer & Ors v AG

[2001] JLR 373 . Bonnar v AG

[2001] JLR 626 . Criminal Justice (Young Offenders) Jersey Law 2014. Y v AG

[2021] JRC 143 AG v Roy

[2022] JRC 036 AG v Buesnel

[1996] JLR 265 AG v Young

[1980] JJ 281 AG v Cameron

[2008] JRC 182 . Page Last Updated: 09 Nov 2022 Back to top About JLIB Accessibility Contacts Disclaimer Feedback Privacy policy Site map © Jersey Legal Information Board 2001- This website is not compatible with your web browser. You should install a newer browser . If you live in Jersey and need help upgrading call the States of Jersey web team on 440099. BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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