

JERSEY / JUDGMENT

AG -v- Roslan [2018] JRC 046 (05 March 2018)

[2018] JRC 046

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JUDGMENT

THE Commissioner: 1. The defendant, who is 29, stands to be sentenced to one count of possession of small quantity of cocaine, two driving offences and one count of importing cocaine. It is the importation of the cocaine that is the most serious offence. The defendant was stopped by Customs and Immigration after arriving on a flight from Liverpool. Swabs from inside his holdall and headphones tested positive for cocaine and he was arrested. 2. In custody he was observed taking a condom wrapped package from his crotch area. It contained two packages, one containing no control substances and the other containing cocaine weighing 13.55 grams with a purity of 70% and with a street value of at the lowest £1,120 going potentially up to £9,500 if further adulterated. 3. The Crown invite the court to sentence the defendant on the basis that this importation was for personal use and following the approach set out by the Court of Appeal in the case of *Shahnowaz v AG*

[2007] JLR 221 have taken the starting point of 8 years applying the guidelines in *Rimmer Lusk v AG*

[2001] JLR 373, the applicable band being between 7 and 9 years for the starting point. The Crown have then allowed a one third deduction for the guilty plea and a further deduction for the drugs being for the defendant's personal use, arriving at a sentence of 4 years' imprisonment in total. 4. The penalty sought by the Crown in relation to the driving offences, which we agree with the Crown were serious, come within the guidelines issued by the Magistrate. 5. The defendant has a previous conviction for importing drugs for which he was sentenced for 3½ years' imprisonment. He was transferred to the United Kingdom to complete his sentence and was released on licence on 31 st December, 2015. He had not been given permission to travel to Jersey and we are told had failed to attend a number of appointments with his supervising officer. 6. These offences were committed, therefore, whilst on licence for the previous offences and the importation took place after he had been cautioned over the cocaine found in his car. These are aggravating features. 7. He is assessed in the Social Enquiry Report at a medium risk of generalised reconviction but he poses as no risk of violence to others. 8. In terms of mitigation the defendant has pleaded guilty, he has the support of his partner and we have considered the references

that have been supplied and indeed his own letter to us. He does have a good work ethic and employment record. 9. Advocate Marks has suggested to us that the appropriate starting point should be 7½ years' imprisonment but we disagree. Taking into account all of the mitigation put forward by her we agree with the conclusions of the Crown in respect of all the offences for which he is to be sentenced today. In particular, we agree that having regard to all of the documents before us a total sentence of 4 years is the correct amount to reflect all of the criminality here. 10. In order to constrain ourselves to that totality we will therefore impose no penalty for Count 2, that is the careless driving and we will impose a concurrent sentence for Count 3 for failing to report, but we wish to make it absolutely clear that we regard the driving offences here as very serious. The passenger was clearly badly frightened by the experience of being driven in that way, with the car turning onto its roof, an accident that could have resulted in serious injury to her and indeed to the defendant. It is also clear that the defendant's conduct frightened the innocent witness who came upon the scene later and was trying to assist. 11. The Court sentences you as follows on Count 1; 1 months' imprisonment; Count 2; no separate penalty; Count 3; 4 years' imprisonment, concurrent; Count 4; 4 year's imprisonment, concurrent, which makes a total sentence of 4 years' imprisonment. We impose a disqualification for a period of 18 months in relation to Counts 2 and 3. 12. We order the destruction of the controlled substances seized in the case. Authorities *Shahnowaz v AG*

[2007] JLR 221 *Rimmer v AG*

[2001] JLR 373 . *Attorney General-v-De La Haye and Kearney*

[1995] JRC 248. *Attorney General-v-Roslan, Whitcombe & Lagadu*

[2015] JRC030A. Page Last Updated: 13 Apr 2018 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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