

JERSEY / JUDGMENT

AG v Sheppard [2020]

JRC 075 (30 April 2020)

[2020] JRC 075

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JUDGMENT

THE DEPUTY BAILIFF: 1. Lewis Sheppard, you are 34 years old and fall to be sentenced today for an offence of being knowingly concerned in the fraudulent evasion on the prohibition on the importation of a controlled drug, namely, cocaine. 2. On the 16th November, 2019, you were stopped by customs and immigration officers at the airport. You said that you had nothing to declare and gave a false account for your journey. This led the officers to become suspicious and it transpired that you were carrying internally some five packages containing cocaine with a combined weight of 136.91 grams, with a purity ranging from 32 to 41 per cent. Had the cocaine been sold in one ounce units, it would have generated between £8,000 and £10,000. Had it been sold in grams, it would have generated between £11,000 and £13,700. Given the purity of the drug, it could have been adulterated to yield greater proceeds. 3. In interview you told the officers that the cocaine was for your own use and you had paid £1,000 per ounce. You said that no-one else was involved in the offence. The Crown has accepted the basis of your plea, to the effect that some of the cocaine imported was for your personal use, but you have accepted that the majority of this Class A drug was intended for supply within the Island. 4. The leading case of *Rimmer and Ors v AG*

[2001] JLR 373 provides a starting point of 10 to 13 years' imprisonment for quantities of between 100 and 250 grams of Class A controlled drugs in powder form. The position of a particular defendant within these bands is to be determined by the weight of the drug and the defendant's role and involvement and, where appropriate, the value of the drugs. 5. We have referred to the weight and the value of the drugs already. You accepted that you were the organiser of this importation and sourced the drugs yourself. Having regard to all the circumstances, we fix the starting point in this case at 10½ years' imprisonment. 6. You have a number of previous convictions, the most relevant being your appearance before Derby Crown Court in November 2013 when you were sentenced to three years' imprisonment for possession of cocaine with intent to supply. We have read the pre-sentence report about your history of drug use, and you are assessed as having a high risk of reconviction. You say that your involvement in this case was partly in consequence of threats made to you by drug dealers and your advocate has, quite rightly, accepted that that is no mitigation at all. We concur with the policy of the Court set out in *AG v Miah*

2004 JRC 048 , where the Royal Court said: "7. ... The Court's policy is clear; where threats arise on the part of a dealer or on his behalf, no mitigation is allowed and it seems to us there are two clear policy reasons for this. 8. The first is that a drug user puts himself in this position. Anyone who purchases drugs knows that they are moving in an illicit world where threats are an everyday occurrence and they are regularly used. It seems to us therefore that any person, who by choosing to purchase drugs, puts him or herself in this position cannot later claim that he should be allowed mitigation for some other offence he commits because of those threats. 9. Secondly, it is, in most cases impossible to know whether such a suggestion is true. Save in the rare case of physical evidence, it is impossible for the Crown or the Court to know whether a simple submission by a person that he or she has been threatened by his dealer is true or not." We endorse those observations. 7. Pursuant to the Proceeds of Crime (Jersey) Law 1999 , we declare that your benefit from criminal conduct in this case is £13,674.55 and we make a confiscation order in the sum of £74.55. 8. We make a destruction order in respect of the drugs seized. 9. The policy of the courts of Jersey is, and has been, that importation of large quantities of Class A drugs such as this will be dealt with severely. We give you credit for your guilty plea and all the matters that have been urged on your behalf by your advocate. Your advocate accepts that owing to the circumstances of this offence, you are not entitled to the full one-third deduction that is customarily given on account of a guilty plea. Allowing a 25 per cent reduction for guilty plea from the starting point we have indicated yields a sentence of just over 7 years and 10 months' imprisonment. But, owing to the circumstances of this case, the references we have read, your letter to the Court and all the other material available to us, we are able to reduce that sentence further and the sentence we impose is one of 7 years' imprisonment. Authorities Rimmer and Ors v AG

[2001] JLR 373 . AG v Miah 2004 JRC 048 . Proceeds of Crime (Jersey) Law 1999. AG v Ennis

[2018] JRC 117 AG v Mkatapa

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