

JERSEY / JUDGMENT

AG -v- Simon [2018] JRC 076A (25 April 2018)

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JUDGMENT

THE COMMISSIONER: 1. You have been using and selling cannabis resin for a number of years. The prosecution accept that you have been selling to people of mature years who often, but not always, have a medical condition that they believed was assisted by the drug. But the fact remains that you've been in flagrant breach of the law for some time. 2. The amounts involved in connection with your possession with intent to supply, namely Counts 2, 5 and 6, come to 5.48 kilos. On a separate Indictment, there is a charge of being concerned in supply which relates to 7.27 kilos. However, the facts of that are extremely unusual, and we sentence on the basis of the facts as put forward by you, and that is that you did not know that the cannabis had been left on your premises and you only happened to find it there when you went to the out-building in question and saw a holdall you did not recognise. You realised it was cannabis but you did nothing about it and did not tell the police or destroy it. That is the nature of your involvement in that count. 3. You have also pleaded guilty to possession of a substantial quantity of MDMA. We are told that it is the equivalent of 1,730 tablets, although they had deteriorated through age and a lot of it was now in powder form such that the drug was no longer usable. Again your version of events, upon which we must sentence, are that they had been left there by somebody else and you only became aware they had been left well after the event, by which time they had already deteriorated. So again your involvement there was not to do anything about it. 4. You have also pleaded guilty to some personal possession drug offences and to possession of some old firearms, which clearly had not been touched for many years. 5. We think that the right approach to this unusual case is in broad terms that suggested by your advocate. We are going to consider first Counts 2, 5 and 6, those are the offences of supply or possession with intent to supply. As I have already stated that involved some 5.48 kilos. The leading case of *Campbell v AG*

[1995] JLR 136, suggests a starting point of between 2 and 6 years for between 1 and 10 kilos. So on a purely mathematical basis that might suggest a starting point of around 4 years. But this was a prolonged course of conduct over many years and we think the correct starting point is one of 5 years. So that will be applied to Count 2 which is the most serious count. 6. We then consider the mitigation. Your advocate has spoken powerfully on your behalf. You pleaded guilty. You immediately made full admissions and were extremely co-operative and that stands you in good stead. Although you have some minor convictions,

they all date from many many years ago and we treat you as a man of effective good character, and it is always sad to see a 65 year old of effective good character coming before the court. We have read the references which speak highly of you. We have also noted that you play an important part in the life of your elderly parents and that they will be affected therefore by any prison sentence. We have also had regard to the other matters put forward by your advocate. 7. Taking those matters into account we would have applied a reduction of 50% to the starting point, so that would have led to a sentence of some 2½ years on Count 2 as the most serious one, with concurrent sentences on Counts 5 and 6. 8. We think that the offence on the Second Indictment, that of being concerned in the supply of cannabis must be consecutive, despite what your advocate said. It was a substantial amount, although we accept that your involvement was limited. We think that overall we would have applied an additional sentence of 1 year to that. So, but for the matter that I am about to mention, we would have imposed a sentence of 3½ years with all the other sentences being concurrent. But you have named your supplier and some of your customers, you have given a statement to the police which sets this out, and you have said that you are willing to give evidence in support of that statement at any trials where you are asked to do so. Where a person gives such assistance and is willing to acknowledge it in public the court gives a substantial additional discount because we wish to encourage others to do likewise, because that will assist in the fight against those who traffic in drugs. We think that an overall deduction of 18 months to reflect that would be appropriate. 9. That means that the overall sentence we are going to impose is one of 2 year's imprisonment. We cannot accede to your advocate's suggestion, albeit put forward with due modesty, of a non-custodial sentence in this case. 10. So turning to the actual sentences. On the Second Indictment, the one count there, being knowingly concerned, we impose a sentence of 6 months imprisonment. Turning to the main Indictment, Count 2; 18 months' imprisonment consecutive; Count 3; 9 months' imprisonment, concurrent; Count 4; 3 months' imprisonment concurrent; Count 5; 1 year's imprisonment, concurrent; Count 6; 1 year's imprisonment, concurrent; Count 8; 18 months' imprisonment, concurrent; Count 9; 3 months' imprisonment concurrent, Count 10; 1 month's imprisonment, concurrent, and we agree that there should be no penalty for the three firearms offences at Counts 12, 13 and 14. 11. So the 6 months plus the 18 months means that the total sentence is 2 years' imprisonment. 12. We order the forfeiture and destruction of the drugs. 13. We order the forfeiture and destruction of the firearms and the ammunition. 14. We adjourn the question of a confiscation order. Authorities

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