

JERSEY / JUDGMENT

AG v Spinola [2005] JRC 060 (29 April 2005)

[2005] JRC 060

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JUDGMENT

THE BAILIFF: 1. This defendant is currently serving a sentence of 4½ years' imprisonment for drug trafficking offences. As this Court has stated on a number of occasions the possession of illegal drugs in La Moye Prison is a serious matter. Illegal drugs are a form of currency which can undermine discipline and good order quite apart, of course, from the fact that the Law forbids their possession. 2. The quantity involved here was small. We are satisfied that the cannabis and heroin in the defendant's possession were for his personal use. 3. It is an aggravating feature that he had been transferred to the drug-free wing of the prison where prisoners enjoy certain privileges, and are expected to remain drug free. The defendant breached that trust placed in him by the prison authorities. 4. In mitigation he has pleaded guilty to the indictment. We would have thought that the conclusions of the Crown Advocate were absolutely correct, but for one factor which has troubled us and which was emphasised by counsel for the defendant. That factor was the delay in telling the defendant that he was to be charged with these offences in addition to the usual disciplinary action taken in the Prison itself. 5. The chronology is that the drugs were found at the Prison on 29 th September. The Police were informed on 30 th September, and on 27 th October 2004, the defendant was interviewed at Police Headquarters. At that stage the police were in possession of all the evidence they needed and indeed all the evidence that was available to make a decision as to whether or not the defendant should be charged. Yet it was not until three and a half months later, on 10 th February 2005, that the defendant was charged with these offences and presented before the Court. 6. A prisoner is, as his counsel has rightly said, entitled to due process in a timely fashion. In the context of a prisoner who is incarcerated for a particular period and to whom his release date is significant, it is more than usually important to know whether he is to be charged with additional offences which are likely to affect that release date. 7. We propose, notwithstanding the correctness in all other respects of the conclusions to make a small reduction to reflect our concern in that respect. 8. Spinola, we have read all the Reports and we hope that you can indeed conquer your addiction and we are encouraged to learn that you are remaining drug free and that the prison authorities have sufficient confidence in you to have returned you to the drug-free wing. 9. We must punish you for the offences you have committed and the sentence of the Court is that you will be sentenced to 2 months' imprisonment on count 1 and 5 months' imprisonment on count 2, those sentences to be concurrent with each other, but consecutive to the sentence imposed on 25 th February, 2004. Authorities A. G. -v- Bartley and others [2004]JRC037. Numan Farooqui [1991] 1

Cr. App. R. (S) 379. A. G. -v - Miah (12 th January, 2001) Jersey Unreported [2001]JRC11. A. G.. v Cunningham (23 rd March 2001) Jersey Unreported [2001]JRC70. A. G. -v- Barr (21 st February, 2003) Jersey Unreported [2003]JRC42. A. G. -v- Corvel (2 nd March 2201) Jersey Unreported [2001]JRC55 Page Last Updated: 14 Jul 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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