

JERSEY / JUDGMENT

AG -v- Sutton [2015] JRC 147 (03 July 2015)

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JUDGMENT

THE commissioner: 1. In August 2014 the Court gave you a chance and placed you on probation for importing "New Psychoactive Substances" (NPS', as they are called). But now you have imported by post 156 grams of Ethylphenidate which is another NPS. It is a Class B drug, with a street value of £8,000. It is clear from all the reports, and I think you accept, that you have a serious drug dependency and until you can manage to overcome that, you are going to find yourself getting into trouble and probably coming back before the Court again. But it is to your credit that you have recognised that. 2. In mitigation Advocate Harrison has not only referred to your guilty plea and your age of 20 but also too, the efforts you have been making in prison whilst on remand to attend various courses which, it is hoped, will help you in that respect and also educationally so that you are well prepared when you come out. 3. But very realistically Advocate Harrison has accepted, and I think you have accepted, that in view of the fact that you are in breach of the Probation Order for such a similar offence, the Court really has no alternative but to pass a custodial sentence and we agree. We must, of course, bear in mind Article 4 of the Criminal Justice (Young Offenders)(Jersey) Law 1994 but in our judgment you first of all have shown yourself unable or unwilling to respond to non-custodial sentences but equally importantly we consider that this offending, given your previous one, is too serious to be dealt with by way of a non-custodial penalty. The Court has on a number of occasions emphasised the dangers of these NPS's and the damage that they can do to young people. We therefore take a serious view of any importation of a commercial amount, let alone somebody who does it on a second occasion when they are subject to a Probation Order. So there is no alternative to youth detention. The question then is the length. We feel in the light of the progress you are making in custody and your youth, and the other matters put forward by Advocate Harrison that we can reduce the conclusions a little. 4. The sentence of the Court is one of youth detention of 15 months. In relation to the breach of probation, the Crown had moved for 12 months', concurrent, which is the sentence which the Court said last time would have been the correct sentence but, of course, you have already served that on remand. The quirks of the legislation are such that, if we were now to impose a sentence of 12 months, any time spent on remand would not be counted against that. Now on the facts of this case it would not make any difference because we are passing a concurrent sentence of 15 months but, nevertheless, in principle it must be wrong to pass a sentence which could result in an offender effectively serving a sentence twice. So we think the right course is to pass a nominal sentence. The Court does have the power and the right

to mark a breach of probation so we impose a sentence of 1 month's youth detention, concurrent. So the total is 15 months and we remind you that you may be liable to supervision on your release. 5. We also order the forfeiture and destruction of the drugs. Authorities Criminal Justice (Young Offenders)(Jersey) Law 1994 Campbell, Molloy and Mackenzie-v-AG

[1995] JLR 136 . AG-v-Sanguy

[2012] JRC 170A . AG-v-De Freitas, Sutton, Savile and Cousins

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