

JERSEY / JUDGMENT

AG -v- Thomas [2012] JRC 040 (23 February 2012)

[2012] JRC 040

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JUDGMENT

THE commissisoner: 1. The most serious offence for which the defendant stands to be sentenced today is possession with intent to supply of 9.30 grams of cocaine but he also faces eight other counts for possession for personal use and possession for supply of lesser amounts of cannabis, cocaine and TFMPP. 2. The Rimmer guidelines recommend a starting point of between 7-9 years for trafficking of amounts between 1-20 grams of Class A powdered drugs. In determining where in this band the defendant lies depends on the weight of the drugs and the role that he played. The defendant admitted in interview that he intended supplying the cocaine for profit and to supplement his income. This is not the first time the defendant had offended by way of possessing with intent to supply a Class A drug. On this occasion he admitted obtaining the cocaine and dividing and packaging it into smaller wraps for onward sale. Given the defendant's comprehensive role and responsibility in this undertaking, it is the Crown's view that a starting point of 9 years would be appropriate. 3. In considering the issue of the totality of the sentence for these three counts of trafficking of different types of drug, the Crown has considered whether to apply what has been described as the Valler uplift to the starting point of the most serious of the offences. Valler-v-AG

[2002] JLR 383 was considered by this Court in the recent case of AG-v-MacKenzie and Richards

[2011] JRC 173A . In the light of the Crown taking the highest point of the relevant band i.e. 9 years, for the starting point for the cocaine trafficking and in the light of the lesser significance of the quantities of cannabis and TFMPP involved in Counts 7 and 8, and all of the other circumstances, the Crown have reached the view that the overall criminality is adequately reflected by the starting point taken for Count 9, and that no Valler uplift is necessary. 4. Miss Grace, for the defendant, submitted that a starting point of 8 years was more appropriate and that, again, no Valler uplift should be applied. Having considered the submissions, the Court agrees with Miss Grace that that is the appropriate starting point to adequately reflect the overall criminality of these offences and that no Valler uplift should be applied. 5. The defendant has a previous record of drugs offences, having been sentenced to 7 years' imprisonment in July 2004 for supplying cannabis. He was released in September 2008. He is assessed at a high risk of re-offending and we are advised that he

does pose a risk to members of the public who may well be drawn into drug use by someone willing to supply them with illegal substances. 6. We have considered all of the mitigation put forward by Miss Grace on behalf of the defendant, his plea of guilty; his cooperation with his interview with the police; we have considered his references and his letter of remorse written to us and of course the reports. He has explained to us, through Miss Grace, that following being made unemployed he suffered from depression; his father had then died and it was as a result of these personal circumstances that he got involved again in the drugs trade. We are very pleased to see however Mr Thomas that you are making positive use of your time in prison. You have completed a computer course and you are working full time in the kitchens and we wish to encourage you in that. 7. However, the defendant committed these offences well aware of the risk that he was taking and the consequences if he was caught. He must now face those consequences. He is a mature man who was relying on his drug trafficking as a means of living. Having considered the mitigation carefully we have determined that 5 years and 6 months' is the appropriate overall sentence for this case. 8. In relation to the counts which you stand to be sentenced, on Count 1 you are sentenced to 1 month's imprisonment, on Count 2; 2 months' imprisonment, on Count 3; 3 months' imprisonment, on Count 4; 1 week's imprisonment, on Count 5; 1 month's imprisonment, on Count 6; 2 months' imprisonment, on Count 7; 3 months' imprisonment, on Count 8; 9 months' imprisonment and on Count 9; 5 years and 6 months' imprisonment, each of those to be concurrent, making a total sentence of 5 years and 6 months' imprisonment. 9. We also order the forfeiture and destruction of the drugs. Authorities Rimmer Lusk and Bade-v-AG

[2001] JLR 373 . Valler-v-AG

[2002] JLR 383 . Campbell Molloy and MacKenzie-v-AG

[1995] JLR 136 . AG-v-MacKenzie and Richards

[2011] JRC 173A . AG-v-Channing

[2004] JRC 188 . AG-v-Thomas

[2004] JRC 129 . AG-v-Thomas 1996/047. Page Last Updated: 13 Sep 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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