

JERSEY / JUDGMENT

The Attorney General v Anthony Leonard Hogan

COURT
ROYAL COURT

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[2008]JRC207
ROYAL COURT
(Samedi Division)
1st December 2008

Before : M. C. St. J. Birt, Esq., Deputy Bailiff, and
Jurats Bullen, Clapham, Le Cornu, Morgan and Liddiard.
The Attorney General
-v-
Anthony Leonard Hogan
Sentencing by the
Superior Number of the Royal Court,
to which the accused was remanded by the Inferior Number on 7th November, 2008,

following a guilty plea to a charge of: 1 count of:
Being knowingly concerned in the fraudulent
evasion of the prohibition on the importation of a controlled drug, contrary
to Article 61(2)(b) of the Customs and Excise (Jersey)
Law 1999. (Count 1).
Age: 26.
Plea: Guilty.

Details of Offence: On 8th August, 2008, Hogan was stopped
by Customs Officers at Jersey
Airport, having arrived
on a scheduled flight from Manchester. Following questioning, with
Hogan's consent, a strip search of his person was conducted and Hogan was
then arrested and cautioned on suspicion of being involved in the importation
of controlled drugs. He had in his
possession £5.50 in cash and a piece of paper with a local Airtel
telephone number on it. Whilst in
the custody suite, a Customs Officer seized Hogan's cup of tea. Hogan had emptied
part of one package of
powder that had been hidden on his person into the cup.
Hogan later produced three
cling-film wrapped packages, containing powder, concealed in or near his

rectum. The packages and tea cup contained a total of 86.545 grams of cocaine, with an estimated street value of £6,924 (wholesale £5,625). In interview under caution, Hogan admitted that

- a) when in the custody area he had emptied part of the third package into his cup of tea before re-concealing it;
- b) he and his family had received serious threats against their lives that were the cause of him bringing the drugs into the Island. Hogan refused to name the persons who had required him to bring the cocaine into the Island, explaining the importation had been arranged by the person whose telephone number had been found in his possession and on arrival in Jersey he was to telephone that number and;
- c) he had no idea how he was to return to Liverpool or if he was to be paid, his girlfriend having purchased the ticket for him.

Details of Mitigation: Social Enquiry Reports and letters from Hogan's family set out very difficult family circumstances. Hogan himself expressed remorse in a letter of apology addressed to the Court. Hogan was forced into acting as a courier and did not do so to discharge a drug-related debt.

Previous Convictions: None relevant.

Conclusions: Starting point 10 years' imprisonment.

Count 1: 5 years' imprisonment.
Forfeiture and destruction of drugs sought.

Sentence and Observations of Court: Hogan was forced into acting as a courier. Threats do not amount to mitigation arising from drug-related debts. In this case, however, the Crown has investigated and concluded serious threats were made to Hogan's family and this was not as a result of a drug-related debt.
Starting point 9 years' imprisonment.

Count 1: 4½ years' imprisonment.
Forfeiture and destruction of drugs ordered.
B. H. Lacey, Crown Advocate.
Advocate R. S. Boddie for the Defendant.

JUDGMENT

THE DEPUTY BAILIFF: 1. You imported 86 grams of cocaine concealed internally. You were acting as a courier but fortunately you were stopped on arrival. 2. The first question is the starting point and the Crown correctly says the applicable bracket is 9-11 years for 50-100 grams. The Crown has suggested a starting point of 10 years. However, we must take into account not only the amount but also the nature and scale of your involvement. We are satisfied in this particular case that your involvement is limited and that you were a reluctant courier. In the circumstances we think a starting point of 9 years is correct. 3. We then considered the mitigation. You pleaded guilty at the first opportunity and you made immediate admissions and were generally co-operative when questioned by the Police. You have a poor record but there is only one previous conviction, possession of cannabis, many years ago. We have read carefully the letters of references, we have also noted that you were really trying to turn a corner and get your life back on track before these recent events. We have heard of the fact that you and your family were threatened. The Court has repeatedly said that threats are not mitigation. If a person takes drugs and incurs a debt and as a result is in a position to be threatened by his or her dealer, that is no mitigation. The circumstances in this case are unusual, the Crown has investigated the position and not only accepts that threats of a serious nature were actually made both to you and your family, but also that they did not arise out of any drug taking activities on your part. We have read carefully the social enquiry report and all the other papers before us. Taking all these matters into account we note that the Crown originally suggested a deduction of 50% for the mitigation and we think that is correct. 4. In the circumstances therefore, the sentence we pass is one of 4½ years' imprisonment. 5. We order the forfeiture and destruction of the drugs.

Authorities Rimmer Lusk and Bade –v-AG [2001] JLR 373. AG-v-Miah

[2004] JRC 048. Whitehouse-v-AG 2002/134.

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