

JERSEY / JUDGMENT

The Attorney General v Joel Steven William Hampton

COURT

Royal Court

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Inferior Number Sentencing - drugs - possession and supply - class B**[2022]JRC033****Royal Court****(Samedi)****27 January 2022**

Before :

J. A. Clyde-Smith O.B.E., Commissioner, and

Jurats Ronge and Christensen

The Attorney General

-v-

Joel Steven William Hampton

Sentencing by the Inferior

Number of the Royal Court, following conviction at an Inferior Number Trial,

and guilty pleas to the
following charges:

1 count of:

Being concerned in the supplying of, or in
the making of an offer to supply, a controlled drug, contrary to Article 5(c)
of the Misuse of Drugs (Jersey) Law 1978 (Count 1).

1 count of:

Being knowingly concerned in the fraudulent
evasion of the prohibition on the importation of goods, contrary to Article
61(2)(b) of the Customs and Excise (Jersey) Law 1999 (Count 2).

2 counts of:

Possession of a controlled drug, contrary to
Article 8(1) of the Misuse of Drugs (Jersey) Law 1978 (Count 3 and
Count 4).

Age: 21.

Plea: Guilty.

(The

Defendant pleaded Not Guilty to Counts 1 and 2 but was found guilty at trial of
Counts 1 and 2, on 15 December 2021)

Details of Offence:

The Defendant was aged between 17 – 19 years old at the time of the offending. He turned 21 the day after he was convicted at trial.

Between 1st June 2018 and 11th January 2020, the Defendant was supplying cannabis and cannabis resin on a commercial basis, operating one level above a “street” dealer (Count 1). During that period, he purchased large amounts of cannabis for wholesale prices on credit from other dealers higher up the supply chain, and transferred those quantities to drug dealing associates below or on the same level as him. He expected to receive from them the profits of any sales. His associates received the drugs from him, also on credit. The same was evidenced by numerous messages located on his mobile phones to and from individuals also involved in the drugs trade in Jersey.

During the period in Count 1, he maintained ongoing commercial relationships with a number of individuals which involved the offering for sale and purchase as well as the actual sale and purchase of cannabis and cannabis resin.

The Defendant acquired a substantial amount of cannabis from a particular wholesale supplier with whom he was in regular mobile telephone contact. He had been able obtain that amount “on tick”, without incurring immediate cost.

However, by the summer of 2018, having passed some of that drug (approximately 75g/2.6 ounces) on to another dealer and with that individual failing to sell it, the Defendant was in debt. Having retained 50g (1.7 ounces) himself, he was arranging to sell those amounts in order to pay off his debts as well as profiting from his own acts of supply during the period in Count 1.

By late 2019/early January 2020 the Defendant was unable to satisfy his debts and a number of supply transactions had failed to generate profit. In order to maintain his supply relationships as well as his own drug dealing operation, he was responsible for the postal importation of thirteen bars of cannabis resin, weighing 1,244 grams (Count 2).

The parcel was ordered by the Defendant disguised as gardening equipment and addressed to his home address but was intercepted by Jersey Customs officers. This gave the authorities grounds to search the Defendant’s address on 11th January 2020. Officers found a re-sealable bag containing 396 milligrams of cannabis (Count 3) and a piece of cannabis resin weighing 1.83 grams (Count 4).

They also located items consistent with the recreational use of cannabis, and paraphernalia indicative of drug dealing; comprising scales that tested positive for cannabinoids, numerous zip lock plastic bags, knives with cannabinoid traces on them, a cannabis cutter and a “deal” or “customer” list.

At trial, the Defendant denied being concerned in the supplying or offering to supply cannabis resin or cannabis or of having any knowledge of such activity. He said the messages found on his devices were not attributable to him, but to others he was not willing to name. He accepted that the items found in his bedroom were his, save for the list which was not in his handwriting. He gave examples of his legitimate use of the scales and cutter. The deal bags were a Christmas present. The Defendant said the evidence against him had been made up or fabricated. He said he was not responsible for the importation in count 2 and that there were a number of people that might have been responsible but was not sure whom they were.

At trial, the Drugs Expert gave evidence that the street value of the cannabis resin was between £18,600 - £24,800. If had not been intercepted, it would retail at between £800 - £1200 a bar (£8 to £12 a gram).

As to the wholesale price in Jersey, the entire commodity imported would have cost anything between £10,000 and £15,000 if it had been sold on as a bulk rather than broken down into street size units.

From the messages he interpreted in relation to Count 1, the Expert was of the view that the Defendant had been involved in the supply of cannabis of at least a kilo.

Details of Mitigation:

No previous convictions, youth at the time of the offending and as at the date of sentence.

Previous Convictions:

No previous convictions, but one caution in 2017 for the possession of cannabis.

Conclusions:**Count 1:**

Starting point 2 years' imprisonment. 15 months' imprisonment.

Count 2:

Starting point 2 years' imprisonment. 15 months' imprisonment, concurrent.

Count 3:	No separate penalty.
Count 4:	One month imprisonment, concurrent.
	Total: 15 months' imprisonment. All sentences to run concurrently,
	Declaration of Benefit sought in
	the sum of £33,635.
	Confiscation Order sought in the
	nominal sum of £1.
	No Costs Order sought.
	The Samsung phone and iPad seized
	from the Defendant sought.
	Forfeiture and destruction of the
	drugs and drugs paraphernalia sought.
Sentence and Observations of Court:	Conclusions granted.
	The matter of
	confiscation adjourned to 21 March 2022.
	S. C. Brown Esq., Crown Advocate.
	Advocate F. L. Pinel for the Defendant.

JUDGMENT

THE COMMISSIONER: 1. The Defendant stands to be sentenced for one count of being concerned in supplying or making an offer to supply cannabis resin and cannabis, and one count of being knowingly concerned in the importation of cannabis resin for which he was convicted after trial. He is also to be sentenced for one count of possession of a small quantity of cannabis and one count of possession of a small quantity of cannabis resin to which he had pleaded guilty. 2. The Defendant was a drug dealer between the 1st June 2018, when he was 17 years and 5 months old and the 11th January 2020 when he was just over 19 years old, dealing in cannabis resin and cannabis on a commercial basis, operating one level above a street dealer. 3. The offences came to light when the police intercepted a package addressed to the Defendant at his home where he lived with his grandmother, labelled as a water foot pump. It was found to contain 1.2 kilos of cannabis resin. On searching the Defendant's home, the police found drug paraphernalia consistent with the supply of cannabis and cannabis resin, together with the small quantities of cannabis and cannabis resin, possession of which he has pleaded guilty. 4. The expert evidence was that this quantity of imported cannabis resin was consistent with the quantity of cannabis resin he was supplying over the previous 18 months. The 1.2 kilos of cannabis resin imported at a wholesale price in Jersey are between £10,000 and £15,000 if sold in bulk. 5. The evidence in relation to the earlier supply came essentially from an analysis of the Defendant's mobile telephone and iPad. The defendant at trial said that these messages, which he accepted were on his devices, were not attributable to him but to other persons who he declined to name, to whom he had lent these devices. Of the items found at his home he accepted that they were his apart from what appeared to be a deal list which he said was not in his handwriting. He gave explanations for the other items, for example that the deal bags found were a Christmas present. He denied absolutely being involved in the importation. 6. Following conviction, the Defendant's

behaviour has been challenging and defiant to the point that the Probation Officer advises that he is not motivated to commit to probation and that Community Service would not be workable. He is assessed at a high risk of reconviction. He continues to deny the offences for which he was convicted, suggesting to the Probation Officer that he has been set up, and to Dr Elmsley, the psychologist, that he is a victim of a conspiracy which involves the Court. His unhelpful responses to a personality assessment undertaken at the prison rendered the process unworkable, which Dr Elmsley says is unfortunate as she thinks it likely that his presentational and interactional style is indicative of a personality disorder. 7. The defendant was 21 the day after his conviction and so the provisions of Article 4(2)(b) of the Criminal Justice (Young Offenders)(Jersey) Law 2014 apply. The Crown take the view that the appropriate age at which to fix the Defendant's overall criminality is 19 years of age when he made the importation, the purpose of which was to maintain the supply of drugs in Jersey for at least another year and this as an extension of the earlier supply. Advocate Pinel for the Defendant agrees that this is the appropriate age to fix his overall criminality. 8. The Defendant has no previous convictions and so it is Article 4(2)(b)(iii) that applies, and the Crown take the view that the totality of the offending here is otherwise so serious that a non-custodial sentence cannot be justified. 9. The guidelines in *Campbell v AG* [1995] JLR 136 indicate that a starting point of between two and six years apply for quantities of over 1 kilogram, and this for the importation offence. As for the Article 5(c) offence of being concerned in the supply of cannabis resin and cannabis the Crown is submits that the Campbell guidelines should also apply following the *AG v Taylor* [2019] JRC 027, as the Defendant was at the centre of buying and selling cannabis resin and cannabis on a commercial basis in similar quantities to the importation from which he intended to profit.

10. The Crown therefore consider the correct starting point for the supply and importation offences as 2 years' imprisonment and move for a sentence of 15 months concurrent, such a sentence being broadly consistent with the decisions of the Court in *AG v Gill* [2018] JRC 196; *AG v Crespel* [2014] JRC 247 and *AG v Bishop* [2012] JRC 193A.
11. In terms of mitigation, Advocate Pinel accepts that 2 years is the correct starting point and that 15 months is the correct sentence allowing for mitigation, essentially his youth and the 18 month delay between his arrest and the first appearance in court. However, she submits that the Court should consider imposing Community Service as an equivalent to imprisonment against the recommendation of the Probation Officer, which she says that the Defendant is prepared to do.
12. We are not prepared to impose Community Service against the recommendation of the Probation Officer, and it is in that respect worth setting out what she says at paragraphs 27 and 31: "27. The offences themselves are not indicative of Mr Hampton presenting a risk of harm to others outside of the damaging impact that drug supply can have on the wider community. However, since being on remand Mr Hampton has presented at times with challenging behaviour. This has been in the form of verbally abusive behaviours towards prison personal, he has damaged prison property and been defiant and non-compliant. He has also spat at staff and made threats towards them, which clearly increases the risk that he

poses to others. ...

31. I am not convinced Mr Hampton would adhere to the conditions of the Community Service Scheme. I believe his presentation would create difficulties, on the scheme, which in turn could place other service users and staff at risk. His behaviour whilst in custody is evidence that he struggles to respond appropriately to a highly structured regime and therefore his compliance on Community Service would likely be challenging to the staff and disruptive to other individuals.” And the Probation Officer has confirmed to us today that this is behaviour that did not just take place when the Defendant was convicted and first sent to prison but has continued whilst he has been on remand, in particular in the last month he has smashed a television at the prison.
13. The Defendant has little mitigation available to him and we agree that the reduction to 15 months is appropriate to reflect both his youth and the delay, a delay which is of concern but not in our view inordinate for this kind of case. In all we agree that a non-custodial sentence cannot be justified and that a deterrent sentence is appropriate to reflect the seriousness of these offences and we therefore will grant the conclusions of the Crown.
14. On Count 1 you are sentenced to 15 months’ imprisonment. On Count 2 your sentenced to 15 months’ imprisonment, concurrent. On Count 3 no penalty will be imposed. On Count 4 you are sentenced to 1 month’s imprisonment, concurrent, which makes a total sentence of 15 months’ imprisonment.
15. We order the forfeiture and destruction of the drugs, drugs paraphernalia, the Samsung phone and the iPad seized from the defendant.
16. Mr Hampton, with reference to the report from Dr Elmsely and the personality assessment, we really do urge you to retake that assessment and to deal with it sensibly, properly. It really is in your interest to do so and thereafter to follow with whatever therapy or treatment is recommended. We hope you will do that.
17. Finally, we approve the directions for the confiscation proceedings Advocate Brown which you have put forward and which Advocate Pinel has agreed to. Authorities Misuse of Drugs (Jersey) Law 1978. Customs and Excise (Jersey) Law 1999. Proceeds of Crime (Jersey) Law 1999. Criminal Justice (Young Offenders)(Jersey) Law 2014. Campbell v AG [1995] JLR 136. AG v Taylor [2019] JRC 027 AG v Gill [2018] JRC 196. AG v Crespel [2014] JRC 247. AG v Bishop [2012] JRC 193A. McDonough v AG [1994] JCA 193 AG v Antunes and Ors [2003] JRC 072 AG v De Sa Fernandes [2021] JRC 287 R v Ghafoor [2002] EWCA Crim 1857 Bowker v R [2007] EWCA Crim 1608 AG v Rodrigues [2004] JRC 098 AG v Le Coguiec [2017] JRC 120 AG v Cauvins [2021] JRC 306 AG v G [2018] JRC 166

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