

JERSEY / JUDGMENT

The Attorney General -v- Kevin Paul Proctor

COURT
ROYAL COURT

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[2007]JRC218
ROYAL COURT
(Samedi Division)
23rd November 2007

Before : Sir Philip Bailhache, Bailiff, and Jurats Bullen and Liddiard.
The Attorney General
-v-
Kevin Paul Proctor
Sentencing by the Inferior
Number of the Royal Court,
following a guilty plea to
1 count of:
Possession of a controlled drug with intent
to supply, contrary to Article 8 (2) of the Misuse of Drugs (Jersey) Law 1978. (Count 1).
2 counts of:
Possession of a controlled drug with intent
to supply, contrary to Article 8 (1) of the Misuse of Drugs (Jersey) Law 1978. (Counts 2 and 3).
Age: 36.
Plea: Guilty.

Details of Offence:

On 15 June 2007, Customs Officers searched Proctor's home and found:-

- a) A clear plastic sleeve containing brown powder (Count 1);
- b) Traces of brown powder on a magazine and knife and phone-card alongside;
- c) Two wraps of brown powder, one found in his wallet (Count 2);
- d) Various items classed as drugs paraphernalia, including needles and scales;
- e) A piece of cigarette paper containing 7 off-white coloured tablets (Count 3);

In interview under caution that day

Proctor made extensive admissions that:-

- a) The clear plastic sleeve (containing 11.88 grams of heroin) had been hand-delivered to outside the front door of his home by an unknown person;
- b) On discovering the clear plastic sleeve outside his front door, he had opened it and tested the contents;
- c) He had not been expecting the arrival of the package. On discovery he assumed that its delivery related to a conversation with an unnamed person a few weeks before who had asked him to look after "something" which request he had declined;
- d) He assumed he was required to mind the heroin until it was later collected by someone at which point he hoped to receive either a monetary payment or heroin in lieu;
- e) He has purchased the heroin in one wrap (760 mg) for his own use the previous evening for £200. The second wrap (65 mg) he had prepared from the heroin delivered and placed in his wallet;
- f) The seven Ecstasy tablets he had found the day before in the flat in certain belongings taken from a deceased friend's flat.

Details of Mitigation

Long standing heroin addict. Difficult life and intense pressure at time of offences when full time carer to his dying mother, who has since died. Full co-operation with Customs
 – full admissions in interview – entered guilty pleas on first appearance before the Royal Court. Responsibilities to partner (ex-addict) and her son who has regarded Proctor as his step father for the past 10 years. Letter of remorse and supportive letters from family and friends, including child's father. Notwithstanding mother's death and the court process, taken positive steps to cure drug habit and support his partner and her son.

Previous Convictions:	Possession of Cannabis and motoring offences. All other previous convictions spent.
Conclusions:	
Count 1:	3 years' imprisonment.
Count 2:	4 weeks' imprisonment, consecutive.
Count 3:	2 weeks' imprisonment, consecutive. Total: 3 years' 6 weeks' imprisonment. Forfeiture and destruction of the drugs seized.

Sentence and Observations of Court:

Counts 1-3:	240 hours Community Service Order, with 2 years' imprisonment as a direct alternative. 2 year's Probation Order with Treatment Order. Forfeiture and destruction of the drugs ordered. A custodial sentence would have been imposed here were it not exceptionally for:- 1) Proctor under extreme emotional stress at the time of the offences when caring for his dying mother; and 2) There being real signs that Proctor is addressing his drug problem. Steps taken towards curing his drug problem and the Court reports positively suggesting he is motivated to cure his drug habit. B. H. Lacy, Crown Advocate. Advocate R. J. MacRae for the Defendant.
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JUDGMENT

THE BAILIFF: 1. This defendant took possession of 11 grams of heroin with a street value of more than £3,000. He used part of the heroin and it must follow that there was an agreement with the supplier that he would receive payment for his services, either in kind or in cash, for looking after the heroin. What Proctor should have done, and did not do, was to take the heroin to the police. 2. On ordinary principles a custodial sentence should be imposed, even though it is accepted that the defendant is a consumer addict and not a dealer. There are, however, particular circumstances in this case. 3. Firstly, Proctor has been an addict for some 15 years and he has been trying to address the problem in recent months. He has attended on the Alcohol and Drugs Service even if it seems he had not followed the programme completely successfully. 4. Secondly, at the time that the offence took place we accept that he was under extreme emotional strain, because he was caring for his dying mother. At the same time he was also trying to give support

to his partner and to her 12 year old son. 5. Thirdly, there comes a time, occasionally, when an addict is motivated to try to beat his addiction. The reports from the Probation Service and the Alcohol and Drugs Service suggest that such a time may have arrived for this defendant. It is in the public interest that opportunities should be taken if they arise to allow a drug addict to reform himself. 6. The Court is going to take what your counsel accurately described as “a merciful and just course” by imposing a non-custodial sentence in this case and we are going to place you on probation for a period of 2 years and to impose a treatment order in the terms suggested by the Alcohol and Drugs Service, which will require you to undertake treatment from Dr Gafoor and submit to testing from time to time. We are also going to impose a community service order and you will perform community service of 240 hours and we state the alternative to that order is a sentence of 2 years’ imprisonment. 7. The Court has been impressed not only by your own letter but the letter from other members of your family and by the close relationship that you obviously have with your partner and her 12 year old son. If the Court had received evidence that these drugs and this drug paraphernalia had been at the home that you shared with your partner and the boy the Court might very well have taken a different view. We hope that you will succeed in overcoming your addiction and we do not wish to see you again. 8. Forfeiture and destruction of the drugs is ordered No Authorities

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