

JERSEY / JUDGMENT

The Attorney General v Maria Anne Culkin

COURT

ROYAL COURT

BEFORE

F.C. Hamon, Esq., O.B.E., Commissioner and
Jurats Potter, and Clapham.

The Attorney
General

-v-

Maria Anne Culkin

5 counts of:

acquisition, possession or use of property,
representing proceeds of drug trafficking, contrary to Article 17A(1) of the Drug
Trafficking Offences (Jersey) Law, 1988 (counts 1-5 inclusive).

[On 16th November 2001,
the Defendant changed her plea of not guilty to all counts to a plea of guilty
to count 1 and the Crown abandoned its prosecution in respect of counts 2 to
5.]

Age: 31

Plea: Guilty.

Details of

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ROYAL COURT

(Samedi Division)

7th December 2001

Before:

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Jurats Potter, and Clapham.

The Attorney
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Trafficking Offences (Jersey) Law, 1988 (counts 1-5 inclusive).

[On 16th November 2001,
the Defendant changed her plea of not guilty to all counts to a plea of guilty
to count 1 and the Crown abandoned its prosecution in respect of counts 2 to
5.]

Age: 31

	Plea: Guilty. Details of
Offence:	Lived with her boyfriend, a drug trafficker; accepted cash from him regularly, knowing it to be the proceeds of his trafficking; paid it into her bank account; £28,000 over a 2 year period. Details of
Mitigation:	Money not spent on luxuries; used on household expenses and, to a limited extent, on travel for working holidays. The boyfriend was the dominant partner and she had accepted his activities without participating in them. Plea of guilty. Good character. Loss of job and prospects as a trust administrator. Suicide attempts while on remand. No element of purposive deliberation in the offence.
Conclusions:	
Count 1:	1 year's imprisonment. Sentence
and Observations of Court:	
Count 1:	240 hours' community service. Court gives specific warning that, for the reasons given in the judgment, the case is to be regarded as exceptional and is not to be regarded as indicating the Court's policy in cases of this kind. C. E. Whelan, Esq., Crown Advocate. Advocate M. L. Preston for the accused.

JUDGMENT

THE commissioner: 1. This prosecution is the result of an enormous amount of legitimate undercover investigation and, perhaps, this is an opportunity to congratulate the police who worked on this matter, for the way they carried out that investigation. 2. The background facts have been very thoroughly canvassed by Crown Advocate Whelan. Suffice it to say that Culkin lived with a notorious drug dealer who is referred to by the name that he used when he was not calling himself Anthony Reynolds, that is Draper. Draper, as we know, is currently serving a sentence of 8 years' and 6 months', having been closely involved in the attempted importation of 1 kilogram of heroin having a street value in Jersey of some £300,000 - that is a Jersey wholesale value of £150,000 to £180,000. 3. It is quite clear to us that Culkin who is 31 years' old and who, like Draper, originated from the Liverpool area, knew that Draper was involved in drug dealing. She knew that Draper dealt in drugs for cash and she did not in any way demur from his activities. 4. Forensic accountants have investigated her financial affairs. She was charged on 14th May 2001

and eventually changed her plea so as to admit the offence on 16th November 2001 and we must say that that has saved a very complex trial. 5. As to the offence, Crown Advocate Whelan has summarised that in detail. A bank account in her name was a perfect medium for Draper's drug money to be laundered. The accused held a responsible job in a Trust Company for limited periods each year as an Assistant Trust Administrator. She studied successfully for professional exams and she has no record of previous convictions. She was, on the face of it, above suspicion. 6. It is, in our view, however, important to repeat Crown Advocate Whelan's words in that regard. What he said to us was this: "It is not said against her that she was a drug dealer. It is not said against her that she is a drug user. It is not said against her that she used her position as a Trust Company Administrator for any illicit purpose. It is not said against her that she devised a scheme of the least sophistication to hide the money." 7. What, of course, happened was that she helped Draper to launder the money. She had no lavish lifestyle but, in part, the money was used to pay for necessities and, of course, to fund the foreign travel so that she did not have to work full time. 8. This is the first time that there has been a prosecution under Article 17 A (1) of the Drug Trafficking Offences (Jersey) Law 1988. We note that the legislature imposes a maximum penalty of fourteen years' imprisonment for the offence. 9. Crown Advocate Whelan has said that the Attorney General, on who's behalf he speaks, can take no position other than that the public interest requires a custodial sentence. We appreciate that view but there is much mitigation and the law is limited in its guidelines. In *O'Meally and Morgan* (1994) 15 Cr. App. R (S) 831 there was what was called a 'cold blooded' offence where the accused with a previous drug record pleaded guilty to travelling to Jamaica to launder to some £30,000 of drug money for which he took a fee of £6,000. He was sentenced to 18 months' imprisonment. Now in that case the English Court of Appeal said this: "It is impossible, in our judgment, although we have been asked to do it, to lay down guidelines which would be helpful in cases of this kind for the reasons which the Lord Chief Justice gave in argument. Cases of this kind are infinitely variable and the part played by a man who launders money may vary from the case, for example, of the appellant *O'Meally*, to a very much more serious conspiracy involving enormous sums of money...In the judgment of this Court it is not possible, thus, to indicate any particular level which might be suitable by way of imprisonment for any particular sum because the circumstances of the laundering may vary so much from case to case."

10. We have looked at *Hannah* (1994) 15 Cr. App. R. (S) 44 and at *Greenwood*

(1995) 16 Cr. App. R. (S) 614, but these cases only highlight the variety of circumstances in each individual case. We note that there is in this case no purposive deliberation, no attempt to pervert the course of justice. What Culkin was doing was regarding her partner's cash, which she well knew was wholly tainted, as legitimate income and spending it routinely as legitimate cash.

11. The reports that we have read have given us some real concern. She has lost her job in which she did well. It is highly unlikely that she will be employed again in the finance industry. On two occasions Miss. Culkin has attempted to harm herself. The realisation that she has been duped by her thoroughly evil partner is no doubt a traumatic experience and that is borne

out by the effects on her health that have been well documented in the reports before us. The probation report is encouraging. The probation officer says that her risk of re-offending is absolutely minimal and because she is a first offender with no pattern of offending she is, therefore, not suitable for probation.

12. Miss Culkin, you know how stupidly you have behaved and you know now, I think, how evil this trade is. We are not going to send you to prison, we are going to put you on community service for one year and during that time, to show the seriousness that we regard this offence, you will do 240 hours of service. Under the law I am required to say that we considered sentencing you to twelve months' imprisonment. I need to say for those who may follow you that your case is entirely exceptional and we are not in any way creating a precedent. Authorities O'Meally and Morgan (1994) 15 Cr. App. R. (S) 831. Hannah (1994) 15 Cr. App. R. (S) 44. Greenwood (1995) 16 Cr. App. R. (S) 614.

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