

JERSEY / JUDGMENT

The Attorney General v Mark Lee Hollings

COURT

ROYAL COURT

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[2010]JRC233

ROYAL COURT

(Samedi Division)

17th December 2010

Before :

J. A. Clyde-Smith, Esq., Commissioner, and
Jurats Morgan and Nicolle.

The Attorney General

-v-

Mark Lee Hollings

Sentencing by the Inferior

Number of the Royal Court,

following a guilty plea to
the following charge:

1 count of:

Possession of a controlled drug, contrary to
Article 8(1) of the Misuse of Drugs (Jersey)
Law 1978 (Count 2).

Age: 36.

Plea: Guilty.

Details of Offence:

On 11th February, 2010, Hollings was sentenced to a total of 3 years' imprisonment for a series of motoring, larceny and drug offences including the postal importation of just under two grams of heroin.

On 26th June, 2010, Hollings was observed by prison officers to be under the influence of an intoxicant. In accordance with prison policy he was secured in his cell and required to produce a urine sample. He claimed to be unable to do so and was provided with liquids. When he again claimed to be unable to provide a sample he was therefore told he was to be transferred to the care and control unit. He became disruptive and had to be removed by force. He was stripped and provided with a rip proof suit. His clothing was searched but no intoxicants were found. Hollings was monitored through the night and just after 2am was seen to remove a packet from his rectum.

He examined the packet before dropping some of the contents. He picked up a number of these pills and was seen to eat approximately thirty one of them. The cell was later searched and a package was found under the pillow containing 224 10 mg diazepam pills. Hollings was taken to Police Headquarters and interviewed. He answered no comment to all questions.

Details of Mitigation: Guilty plea; no intention to supply; heavy diazepam user; seeking counselling and had had negative drug tests since September.

Previous Convictions: 48 convictions for 134 offences including 19 drug offences.

Conclusions:

Count 2: 12 months' imprisonment, consecutive to sentence currently being served, imposed on 11th February 2010. Forfeiture and destruction of drugs sought.

Sentence and Observations of Court:

Count 2: 8 months' imprisonment, consecutive to sentence currently being served, imposed on 11th February, 2010. Forfeiture and destruction of drugs ordered. C. M. M. Yates, Esq., Crown Advocate. Advocate S. A. Pearmain for the Defendant.

JUDGMENT

THE commissioner: 1. The defendant has pleaded guilty to possession of what we accept to be 224 Diazepam tablets, a Class C drug. They were found in his possession at La Moye Prison where he is currently serving a 3 year sentence imposed on 11th February, 2010, for a series of larceny, motoring and drugs offences. The defendant is a prolific offender with convictions for a total of 134 offences of which 19 are drug-related. He has pleaded guilty but has not otherwise been co-operative. He is assessed at a high risk of re-offending. 2. There are no guideline cases relating to possession of Class C drugs but it is well established that possession of drugs in prison is a very serious offence which would inevitably lead to a custodial sentence, which in generality will be consecutive. It must furthermore be a meaningful sentence. The authority for that is the case of AG-v-Barr [2003] JLR N 12. In view of the large number of tablets the Crown seek a 12 month sentence, consecutive to that imposed on 11th February, of this year. We do not think that loss of privileges directly as a result of this offence in the prison, is something that we can take into account. Such loss is an inevitable consequence of the offending which the defendant should have taken into account before offending. However, we do commend the defendant for the steps that he has taken since offending in relation to his drugs use, regularly and on a voluntary basis attending counselling at the prison and being drugs free as confirmed by testing in September,

October and November. For that reason, and taking into account his letter which we have read and the letter from his partner, we are going to reduce the conclusions while still imposing a meaningful sentence. 3. Mr Hollings, you are sentenced to 8 months' imprisonment, to be served consecutive to the sentence imposed on 11th February, 2010. 4. We order the forfeiture and destruction of the drugs. Authorities AG-v-Barr

[2003] JLR N 12. R-v-Roberts [1997] 2 Cr App R (S) 187. AG-v-Barr [2003] JRC 043. AG-v-Corvel 2001/55.

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Prepared on 27 October 2026 · Esheria