

JERSEY / JUDGMENT

The Attorney General v Michelle Glendewar

COURT

Royal Court

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Inferior Number Sentencing – Drugs – possession – Class**A and Class C.****[2017]JRC084A****Royal Court****(Samedi)****8 June 2017**

Before :

Sir Michael Birt, Commissioner, and Jurats

Ramsden and Christensen.

The Attorney General

-v-

Michelle Glendewar

Sentencing by the

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

on 22nd March, 2017, and an earlier guilty plea, to the following

charges:

2 counts of:

Possession of a controlled drug, contrary to

Article 8(1) of the Misuse of Drugs (Jersey) Law, 1978 (Counts 2 and 4).

Age: 51.

Plea: Guilty

Details of Offence:

Just after midnight on Friday 12th February, 2016, the defendant was observed in Chambers Bar, by a door staff member, entering the female toilets with her daughter and a male business partner, at the Hill street end of the bar. The Doorman entered the toilets and in his live evidence stated that they were empty save for one occupied cubicle, the door of which was closed. His suspicions aroused he used his mobile telephone to record over the top of the cubicle. That footage showed the doorman next to the defendant's daughter who could be seen to sniff a line of white powder through a straw from the top of the toilet roll dispenser. The doorman left the toilets and showed the footage to a colleague and the police were called. The doorman re-entered the toilets and asked all three to put their belongings in the sink at which point he seized a blue bag from the defendant which contained a straw, a portion of a Rubis petrol card with a split in it bearing the name Michelle Glendewar and a lump of white substance (later analysed as 985 mgs of Cocaine). All three were arrested at approximately 12:30am and conveyed to police headquarters where 189mgs of Cocaine was seized from a cigarette packet within the daughter's hand bag. The daughter subsequently pleaded guilty to possession of both the 189mgs and 985mgs of Cocaine referred to above. The daughter and the defendant both gave evidence at trial that the Cocaine in the daughter's possession (1.2 grams in total) had not been supplied by the defendant and that explanation was accepted by the Court and the defendant was acquitted of that supply charge. As part of the investigation the defendant's home address was searched by police and the following items,

among others, were seized:

A tape wrapped zip-lock plastic bag containing a white powder from the defendant's underwear drawer (bedroom). A box of 30 Diazepam tablets in the same drawer. The Diazepam tablets bore a label written in French. The powder was analysed and found to be 50.39 grams of Cocaine and the tablets confirmed as 30 x 10mg Diazepam tablets. The purity of the Cocaine varied, but averaged 12.77%. The defendant was interviewed on two occasions. After initial no comment answers in relation to the 50.39 grams of Cocaine found at her house, she admitted that it was hers. She stated that she had purchased it the previous summer while at the Reasons music festival at Millbrook Park for £900, from a drug dealer who she did not know. She said that she had taken some of the drugs by snorting them on two occasions and had never supplied any of the drugs. During the trial the defendant admitted in her evidence in chief that she had lied to the Police

during her interviews about how she came to be in possession of the Cocaine. A different version was given during her evidence in chief. The defendant would not name the drug dealer when asked at trial.

During the first interview the defendant initially gave no comment answers to all questions relating to the Diazepam. Subsequently she stated it had been left at her house by a guest but did not know who. She repeated that explanation in the second interview.

During the trial the defendant presented a statutory defence to the possession of the Diazepam tablets under Article 8(3)(b) of the Misuse of Drugs (Jersey) Law 1978. The statutory defence was not made out and the defendant was convicted on that count.

Details of Mitigation: Guilty plea to possession of cocaine. Difficult personal circumstances at time of offending. Taken positive steps since. Social enquiry report and psychological report filed.

Previous Convictions: Of good character.

Conclusions:

Count 2: 2 years and 4 months' imprisonment.

Count 4: 4 months' imprisonment, concurrent.
Total: 2 years and 4 months' imprisonment.
Costs sought in the sum of £10,000.
Forfeiture and destruction of the drugs sought.

Sentence and Observations of Court:

Count 2: 15 months' imprisonment.

Count 4: 1 months' imprisonment, concurrent.
Total: 15 months' imprisonment.
Costs ordered in the sum of £10,000.
Forfeiture and destruction of the drugs ordered.
C. R. Baglin, Esq., Crown Advocate.
Advocate D. A. Corbel for the Defendant.

JUDGMENT

THE COMMISSIONER: 1. You were originally charged with possessing some 50 grams of cocaine with intent to supply. However, you were acquitted of the intent to supply and we therefore now have to deal with a case of simple possession. We also have to sentence you for possession of a small amount of diazepam, some 30 tablets. 2. The circumstances of both charges are unusual. According to the version which you gave in Court and which it is accepted we should sentence you on, in the summer of 2015 at a time when you were in considerable personal turmoil, you went to a concert at Millbrook Park. There you agreed to buy drugs from a person who you knew to be a dealer through a friend. You gave him £900 and he agreed to attend at your home the next day. There was no mention of the amount or indeed of the nature of the drugs. He duly turned up at your house the next day and you paid him a further £1,100 and what you had acquired for that was in fact the 50 grams of cocaine. You say that you tried the drug once or perhaps twice but you then wrapped and sealed it and put it in a drawer, where it remained until seized by the police in February 2016 following the incident at Chambers concerning your daughter. As to the diazepam, you found the 30 tablets in your home where they had been left there by a colleague from France. They were lawfully prescribed to him in France. You intended to return them to him but you failed to do so as soon as reasonably practicable and therefore you could not avail yourself of the statutory defence. 3. Advocate Corbel accepted that for possession of such a large amount of cocaine a custodial sentence was likely, but she urged that there was exceptional mitigation in your case which meant that a non-custodial sentence was possible. 4. We certainly agree that there is very powerful mitigation. Firstly, you pleaded guilty from the outset and you are entitled to the full one third discount for that in relation to the main offence. Secondly, you are of good character and in this case that means much more than simply that you have no previous convictions. You are a 51 year old woman, you had a difficult beginning but you have made a real success of your life. You have built up a business which employs some eleven employees, you carry out charitable work and you have been a good friend to many. All this is proved to our satisfaction by the outstanding number and quality of references which we have seen. 5. Thirdly, you had a number of issues at the time you purchased this drug. You had been hit by a number of sad family events which we do not need to describe. Fourthly, we have read the psychiatric report. It diagnoses a major depressive episode as being what you had at the time and it expresses worry about the effect of a prison sentence on your mental health. Fifthly, there are the unusual circumstances of the offence, in particular the fact that, apart from one or two doses, you didn't use the cocaine and it has just sat in your drawer for many months. Sixthly, we do agree that this is totally out of character, and we note that you are assessed by the Probation Service as being at low risk of re-offending. 6. We have been referred by counsel to a number of cases dealing with possession of class A drugs including AG v Buesnel [1996] JLR 265, AG v Roche 1997/125, AG v Langley 1999/175 and AG v Lynch [2013] JRC 093. What is clear from these cases is that the Court will often proceed by way of a non-custodial sentence when the amount of the class A drug is modest. But it becomes less likely the greater the amount, not least because of the risk that such drugs could fall into the wrong hands. So, for example, a non-custodial sentence

was imposed in the case of Langley for possession of 7.4 grams of heroin but the Court felt obliged to impose a 2 year prison sentence for Roche for possession of 5.39 grams of heroin notwithstanding that the defendant in that case had no previous convictions. 7. We have considered very carefully whether we can properly impose a non-custodial sentence in your case given the very powerful mitigation we have described. As can be seen by the time we have been retired, the Court has not found it easy. However, given the very substantial amount of drugs in this case, namely 50 grams, the Court has concluded it cannot avoid a prison sentence. However, the powerful mitigation enables us to reduce the sentence quite substantially. 8. On Count 2; 15 months' imprisonment, on Count 4; 1 month's imprisonment, concurrent, making a total of 15 month' imprisonment. 9. We also order the forfeiture and destruction of the drugs.

10. We award costs of £10,000 against the prosecution in connection with this trial where you were acquitted. Authorities AG v Buesnel [1996] JLR 265. AG v Roche 1997/125. AG v Langley 1999/175. AG v Lynch [2013] JRC 093 AG v Milon [2017] JRC 065. AG v Brooks [2017] JRC 018. AG v Derrick [2016] JRC 166E. AG v Whitcombe [2014] JRC 173. AG v Young 1980 JLR 281.

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