

JERSEY / JUDGMENT

The Attorney General v Rasa Matutite

COURT

Royal Court

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Inferior Number Sentencing – drugs – importation –**Class C.****[2013]JRC047****Royal Court****(Samedi)****1 March 2013**

Before :

J. A. Clyde-Smith, Commissioner, and Jurats

Le Cornu and Milner.

The Attorney General

-v-

Rasa Matutite

Sentencing by the Inferior

Number of the Royal Court, following a guilty plea to the following charge:

1 count of:

Being knowingly concerned in the fraudulent

evasion of the prohibition on the importation of a controlled drug, contrary to Article 61(2)(b) of the Customs and Excise (Jersey) Law 1999 (Count 1).

Age: 21.

Plea: Guilty.

Details of Offence:

Matutite, a Latvian National, was

stopped by customs officers having disembarked a St Malo ferry. She stated she had nothing to declare

explaining her visit was to find employment as her Guernsey work permit had expired. When questioned with

regard to drug use she admitted recent use of both cannabis and cocaine while in France. A search of her luggage

revealed nothing prohibited or restricted.

A search of her person revealed a bodice in each bra cup of which was a tape-wrapped package. Matutite

removed those and a further two packages from the crotch area of her

jeans. The packages contained 1,218

buprenorphine tablets (1,192 subutex and 26 suboxone), with an estimated local street value of £97,440.

Matutite had £531 in her possession when arrested.

During interview Matutite claimed she had been “talked into it” by two girls she had met at a party in Paris after telling them she would be travelling to Jersey in a few days’ time. According to Matutite the girls claimed to have made similar importations themselves, that it was “easy” and that she would receive £1,000 once in Jersey. Matutite stated she saw the tablets being removed from retail boxes marked “€20” and popped from their blister packs, giving her a false impression as to the seriousness of what she was about to do.

Details of Mitigation:

Experienced customs officers assessed her role as that of a classic “mule”, which tended to support her admission that she was to receive payment of £1,000. She was 20 years of age at the time of the offence and extremely naïve. Comments made during interview suggested she had no idea of the seriousness of her actions. She appeared genuinely shocked when informed of local street value of the tablets. Unsophisticated importation. The Defence described her as having been preyed upon and taken advantage of and, although not threatened, when had second thoughts felt no option but to go through with the importation. Indicated guilty plea from outset. Genuine remorse. Glowing employment and previous good character references from Guernsey and UK expressed disbelief at current situation.

Previous Convictions:

None.

Conclusions:**Count 1:**

2 years’ imprisonment.
Confiscation Order in the sum of £531 sought.
Forfeiture and destruction of the drugs sought.

Sentence and Observations of Court:**Count 1:**

18 months’ imprisonment.
Confiscation Order made in the sum of £531.
Following Cameron the Court sentenced Matutite, who was 20 on the date of commission of the offence, as a Young offender. Although the social enquiry report supported a community-based disposal as moved for by the Defence the Court viewed the offence as falling to be sentenced under the provisions of Article 4(2)(c) of the Young Offenders Law. Taking account of all the mitigation the Court reduced the Crown’s conclusions and imposed an 18 month custodial sentence.
With regard to making

a recommendation for deportation the Court found the first part of the test, whether her continued presence in the Island would be prejudicial to the community, satisfied, however when considering the effect her deportation would have on her family rights under Article 8 of the European Convention of Human Rights decided, on the information provided, this would be disproportionate and declined to make a recommendation.

Forfeiture and
destruction of drugs ordered.
Miss E. L. Hollywood, Crown Advocate.
Advocate R. O. B. Gardner for the Defendant.

JUDGMENT

THE commissioner: 1. The defendant, who has no connection with the Island, stands to be sentenced for the importation of 1,218 subutex tablets, a Class C drug, with a cost price in France, from where she entered the Island, of £2,400 and a street price locally of £97,440. Subutex is a brand name for Buprenorphine which is essentially a substitute for heroin, prescribed when used legitimately to wean heroin users off opiates. For opiate abusers, when supplies of heroin are low or the quality is poor, subutex fills a void providing a reliable guaranteed hit. The prescription of subutex in the Island is tightly controlled and therefore the street price here is highly inflated. 2. As made clear in the case of Page and Ors-v-AG [2012] JRC 131, the use of starting points for this offence, which carries a 5 year maximum, is not commended but the Court should consider the quality of the drugs, the closeness to the supplier, the street value and the sophistication of the importation which we have done. The Crown accepts that the defendant's role was that of a mule and that this was not a sophisticated importation. 3. The defendant has no previous convictions and has pleaded guilty to the offence. She was 20 at the time of the offence and therefore the provisions of the Criminal Justice (Young Offenders)(Jersey) Law 1994 apply following AG-v-Cameron [2008] JLR N 44. She has a supportive family; her mother has come over to be with her today. We have considered the letters that have been written to us very carefully and it is clear that she has powerful mitigation in her favour. However, the policy of the Court in relation to the commercial importation of drugs is clear, namely that a custodial sentence will be imposed and, in our view, this commercial importation is too serious to justify a non-custodial sentence, notwithstanding the defendant's youth. 4. In Page-v-AG the Superior Number endorsed the following words of the Court of Appeal in AG-v-Campbell

[1995] JLR 136 as applying to the importation of Class C drugs:- "Sadly the lives which are blighted by the abuse of drugs are usually young lives. We agree that the circumstances have changed since this Court issued its guidelines in Clarkin in 1991. The courts cannot by themselves provide a solution to the problem but they can play their part by adopting a sentencing policy which marks the gravity of the crime. We desire therefore to make absolutely clear what is the policy of the courts in this jurisdiction in relation to the sentencing of offenders who import or deal in drugs on a commercial basis. That policy is that offenders will receive condign punishment to mark the peculiarly heinous and anti-

social nature of the crime of drug trafficking.” 5. Having said that, we do think that the defendant’s youth and the powerful mitigation that she has available to her enable us to reduce the sentence. On Count 1 you are sentenced to 18 months’ imprisonment. 6. Turning to the issue of deportation, we do find that the continued presence of the defendant in the Island would be prejudicial to the community, but we agree with the Crown for the reasons set out in the conclusions that deportation would be disproportionate and we are not therefore going to recommend the defendant’s deportation. 7. Finally we order the forfeiture and destruction of the drugs. Authorities Page and Ors-v-AG [2012] JRC 131. Criminal Justice (Young Offenders)(Jersey) Law 1994. AG-v-Cameron

[2008] JLR N 44. AG-v-Cameron

[2008] JRC 182. AG-v-Campbell

[1995] JLR 136.

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