

JERSEY / JUDGMENT

The Attorney General v Stuart Summers

COURT
ROYAL COURT

BEFORE
M.C. St. J. Birt, Esq., Deputy Bailiff, and
Jurats de Veulle, Le Brocq, Bullen, Clapham, Le
Cornu and Newcombe.
The Attorney General
-v-
Stuart Summers
Sentencing by the
Superior Number of the Royal Court,
to which the Defendant was remanded by the
Inferior Number on 1st October, 2004,

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[2004]JRC189
ROYAL COURT
(Samedi Division)
1st November 2004

Before: M.C. St. J. Birt, Esq., Deputy Bailiff, and
Jurats de Veulle, Le Brocq, Bullen, Clapham, Le Cornu and Newcombe.
The Attorney General
-v-
Stuart Summers
Sentencing by the
Superior Number of the Royal Court,
to which the Defendant was remanded by the Inferior Number on 1st October, 2004,

following a Guilty plea to: 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 (General Provisions)
(Jersey) Law 1999.
Count 1: cocaine.
Age: 40.

Details of Offence:

Summers was stopped on his arrival at Jersey Airport and questioned. He was asked to provide a urine sample which tested positive for cocaine. He was then arrested and then requested to undergo x-rays which he consented to. The x-rays revealed the presence of 4 packages concealed internally. These were subsequently produced and were found to be four Kinder Egg type packaging containing a total of 86.63 grams of powder containing 79% by weight of cocaine. This quantity had a street value of £6,930 or a wholesale value of £5,540. Summers was interviewed under caution and whilst he made admissions as to his involvement he was not prepared to answer any questions relating to any other aspects of the importation. The Crown took as its starting point a sentence of 10 years' imprisonment.

Details of Mitigation:

The Crown made an allowance for the guilty plea which was entered fairly early on but in the circumstances did not consider it appropriate to make a one third reduction. Summers was a mature person of 40 years of age and therefore did not have the benefit of youth. He had two previous offences somewhat dated but in light of the character references produced. The Crown was prepared to treat Summers as a first offender and therefore he had the benefit of good character. The Crown did not consider Summers to have been particularly co-operative and reports were produced which in the Crown's view did not contain any mitigation which could be described as exceptional or extraordinary. The Crown noted that Summers' conduct appeared wholly contradictory and incompatible with the picture painted by the character references. On behalf of the defence it was suggested that the starting point should be lowered having regard to the facts in Rimmer -v- AG and the lesser involvement of Summers. Summers felt that he had co-operated with the Customs in interview to the extent that he was able to do so. He was, however, tired and scared and had not slept for three days prior to coming to Jersey and had acted upon the legal advice given to him in answering questions with "no comment". The character references produced described him as being responsible, kind, likeable, trustworthy, good with children, to the extent that he had been made a god parent by some friends. He had also given generously of his time advising others with drug problems which was therefore ironic in the circumstances of his present predicament. This current offence was shocking and out of character to all those who knew him. It was suggested that he had a difficult relationship with his father and in consequence there had been an absence of guidance in his early years causing him to be easily led as an adult.

The background to the offence was that he had borrowed money to purchase a car which in fact he had not done. He decided to buy his own car after being involved in an accident in his father's car. He had made a wrong decision in turning to somebody who then required him to undertake the importation by way of clearing the debt. The only other person he could have turned to for money would have been his brother but it appeared that this was a difficult relationship and Summers was in fact unable to turn to him for help. The Defence relied upon various references and a letter from Summers and requested a sentence of 6 years' imprisonment.

Previous Convictions:	Two previous: possession of cannabis and a public order offence. Both offences were treated as minor and historical.
Conclusions:	7 years' imprisonment; (10 years' starting point).
Sentence and Observations of Court:	5 years' imprisonment; (9 years' starting point). Summers has acted as a courier to clear a debt and had imported 86 grams of powder containing 79% by weight of cocaine which had a street value in Jersey of £6,930. In relation to the starting point this quantity of cocaine fell within the 50 – 100 gram band in the case of Rimmer, which provided starting points of sentences of between 9 and 11 years. Having regard to his role the Court declared 9 years as the correct starting point. In mitigation the Court had regard to his guilty plea, his two previous offences and the various matters raised in reports. They described him as vulnerable and easily influenced and given his background etc. prison was and would continue to be a tough experience for him. The references however showed a different side to his character. He clearly had loyal friends and he had helped others in the past and by his offending had now let them all down. The Court thought the appropriate deduction for the mitigation was one of 4 years. J. C. Gollop, Esq., Crown Advocate. Advocate J. Dickinson for the Defendant.

JUDGMENT

THE DEPUTY BAILIFF: 1. Summers you imported 86 grams of 79% by weight cocaine concealed internally with a street value of some £6,900. You were a courier and you were doing this to clear a debt. 2. The first point we must consider is the starting point. You fall within the 50 to 100 gram bracket in Rimmer, Luske & Bade 92001]JLR373 which suggests a 9 – 11 year starting point. Having regard to your rôle in this matter, we think the correct starting point is 9 years. 3. In mitigation we take into account your guilty plea. You have two very minor convictions from many years ago, nothing since 1991. We have read carefully the background report, the Drug and Alcohol Report and the Psychological Report. It is clear that you are a vulnerable man, easily influenced and prison is, and no doubt will be, tough. 4. Most particularly we have read the references which have been supplied, and these show a completely different side to your character. You have clearly been very helpful to a large number of people and have a number of loyal friends. It is tragic that you have let them down and thrown things away as you have. Nevertheless, we think taking into account all those matters the correct deduction is one of 4 years' so the sentence is of 5 years' imprisonment. We order the forfeiture and destruction of the drugs. Authorities Rimmer Lusk & Bade –v- A. G. [2001]JLR373.

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