

JERSEY / JUDGMENT

The Attorney General v Thomas Christopher O'Hara

COURT
ROYAL COURT

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ROYAL COURT

(Samedi Division)

3rd

July, 1998

Before: F.C. Hamon, Esq.,

Deputy Bailiff, and

Jurats Potter and Quérée

The

Attorney General

-v-

Thomas

Christopher O'Hara.

1 count of possession of a controlled drug

with intent to supply, contrary to Article 6(2) of the Misuse of Drugs (Jersey)

Law 1978.

Count

1: amphetamine sulphate.

2

counts of possession of a

controlled drug contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law 1978.

Count

2: cannabis resin.

Count

3: cannabis resin.

Breach

of Probation Order made on the 5th November,1997.

On

1st April, 1996: the

accused was bound over for 12 months in the Magistrate's Court on 1 count of possession of a controlled drug (cannabis)

On 26th March, 1997: the accused was

charged in the
Magistrate's Court with:

1
count of possession of a controlled drug
(herbal cannabis) (count 1)

1
count of possession of a controlled drug with intention to supply (herbal
cannabis) (count 2)

1
count of being drunk and disorderly (count 3)

1
count of possession of a controlled drug
(cannabis resin) (count 4)

Breach
of probation order made on 1st April, 1996

A
1 year Probation Order was imposed concurrent on all counts, with the following

conditions attached:

count
1: Attendance at SMART course

count
2: 45 hours community service

On
3rd July, 1997: Breach
of Probation Order imposed on 26th March, 1997.

Breach
admitted. Probation Order to
continue. To start SMART course
again

On
2nd September, 1997: re conviction of 26th March, 1997:
count 2: Community Service completed: Probation Order discharged
re count 2.

On
5th November, 1997: Breach of Probation Order imposed on 26th
March, 1997.

Breach
admitted. Probation Order
discharged; 1 year Probation Order with 120 hours of community service
substituted.;
Plea: Guilty. Breach admitted.
Age: 20.

Details of Offence:	O'Hara was found in possession of 18 ½ white tablets containing 3% by weight of amphetamine sulphate, street value £370. Lower end of commercial quantity of drug. The total amount of cannabis subject to counts 2 and 3 on the indictment was 7.86 grams representing two deals or 1/8 of an ounce and therefore a personal amount only. Details
of Mitigation:	Youth. Effectively fatherless for 14 formative years from the age of 6 years following desertion of father from the matrimonial home with consequential effect upon outlook. Signs, according to his Probation Officer that “ he is beginning to manage his own temperament “. First custodial sentence. Previous
Convictions:	Possession of cannabis x 3; Possession of herbal cannabis with intent to supply x 1; One public order offence for which non-custodial sentences were imposed. Conclusions: Count 1: 6 months' Youth Detention Count 2: 1 months' Youth Detention concurrent Count 3: 1 months' Youth Detention concurrent. Breach of Probation Order: Discharged; following sentences substituted Count 1: 1 months' Youth Detention Count 3: 1 months' Youth Detention concurrent Count 4: £50 fine or 1 weeks Youth Detention in default of payment. Total sentence of one months' Youth Detention imposed in respect of breach of Probation Order to follow, consecutively, sentence of 6 months' Youth Detention moved for on main counts. Sentence

and Observations of the
Court:

Conclusions granted.

Serious offence. O'Hara still a drug trafficker even if only supplying friends. Court having read letter from O'Hara's mother and a reference (the former containing sensitive personal information concerning the circumstances of the desertion and the family history) recommended that the three months which O'Hara had already served on remand count towards the sentence imposed by the Court set out above.

P. Matthews, Esq., Crown Advocate
Advocate C.M. Fogarty,
for the accused

JUDGMENT

THE DEPUTY BAILIFF: O'Hara may not consider himself to be a drug dealer, but whether he supplies friends or strangers is to us irrelevant. A drug dealer is one who sells drugs to others for cash, and a drug dealer has to obtain those drugs from someone. O'Hara declines to name his supplier, and why does he do that? Because this is not a friendly trade to be involved in. These present offences also place O'Hara in breach of the Probation Order of one year that was imposed by the Magistrates on 5th November, 1997. It is true that he has worked out the original Probation Order which was discharged, and that included possession of herbal cannabis with intent to supply, and we are left to deal with the lesser offences of simple possession of cannabis and a public order offence. Of the most recent offences that we are dealing with today, the most serious is clearly the possession of the amphetamine sulphate with intent to supply, and we have heard from the Crown Advocate that hidden about his person, after he had been arrested in the very early hours of the morning, and wrapped in cling film, were 18 ½ tablets of amphetamine sulphate containing 3% by weight. That was a commercial quantity, albeit a small commercial quantity of a drug worth, on the streets, some £370. We have, of course, confiscated the £220 which might very well be the proceeds of other dealing. Miss Fogarty has said all that could be said on behalf of her client and, if we may say so, she has said it very well. We have read O'Hara's mother's letter, and it might well be that in the future he could give her some of the support that she is giving to him at this moment, but we feel that a custodial sentence must inevitably follow because the offence is so serious that a non-custodial sentence cannot be justified. Now, stand up please, We are going to follow the conclusions of the Crown, but I am going to say something at the end about that. On count one you are sentenced to 6 months' Youth Detention; on count two 1 months' Youth Detention; and on count three one months' Youth Detention, concurrent, that would make a total of six months' Youth Detention, and we will order the forfeiture and destruction of the drugs. On the breach of the Probation Order, which we have to deal with: count one: 1 months' Youth Detention consecutive to the terms above; count three: 1 month concurrent to count one; and on count four: a £50 fine or one weeks' Youth Detention in default. We discharge the Probation Order, and I have to say that you will be liable to supervision once you are released from Youth Detention, but we are going to specifically ask, because of the attempts that you appear to be making to put yourself onto a better road, that the three months' you have

already spent on remand should be taken into account in calculating the sentence. Authorities Criminal Justice (Young Offenders) (Jersey) Law 1994: Article 4. Attorney General -v- Bateman (8th May, 1996) Jersey Unreported Attorney General -v- Golding (15th November, 1996) Jersey Unreported Attorney General -v- McDonough (7th March, 1997) Jersey Unreported Attorney General -v- Spencer (13th June, 1997) Jersey Unreported Attorney General -v- Le Mottee (20th June, 1997) Jersey Unreported Attorney General -v- Venton (30th January, 1998) Jersey Unreported.

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