

7th January, 1985.

Her Majesty's Attorney General

- v -

Patrick Joseph Boyle

BAILIFF: I say at once that the Court proposes to refuse the application for an extension of time within which to appeal. The reasons are these; the Court fully accepts the principles as set out in section 7, sub-section 85, of Archbold, 41st Edition - and in particular it has had regard to the sentence which says "in deciding whether to grant an extension of time the Court will be influenced by the likelihood of a successful appeal if the extension is granted". Now in deciding that question the Court has also had regard to the statement of the Court of Appeal in the La Solitude case, where it says that "we desire to emphasize that the rules which govern the time in which appeals must be brought are rules that are intended, like all rules, to be observed, this is of particular importance in criminal matters as there is a clear public interest in criminal charges being decided and disposed of as quickly as possible and it should be clearly understood that leave to appeal out of time in criminal matters can only be given in cases where special circumstances of an important character are disclosed". Now in this particular case it is quite clear, most from the judgment of the Court of Appeal in the Pagett case, and from the judgment of the Court of Appeal in the Harrington and Pinto case, that there was, and there is, no intention on the part of the Court of Appeal to change in any way the sentencing policy of the Jersey Royal Court in these sort of cases, and it follows therefore that the only significance of the decision of the Court of Appeal in the Harrington and Pinto case upon which the applicant has relied, the only significance of that is the emphasis, and importance, and significance which the Court of Appeal gave to the special facts of that particular case, and in particular, and I think it's very clear, the particular regard which the Court of Appeal had to the circumstances of Harrington, because as one reads the case they talk about the sentence imposed on Harrington in particular, so it is Harrington to which they had particular regard, and again if one reads the case very carefully it will be seen that there were, in the view of the Court of Appeal, even more special circumstances than were taken into account by the Superior Number from whom the appeal was made. It might be worth saying that the prosecution in moving for sentence in the case of Harrington, actually moved for four years' imprisonment, the Full Court reduced the conclusions and imposed a

sentence of three years' imprisonment; in other words the Full Court did take into account the certain of the special circumstances which applied to Harrington, his age, as mentioned in the Court of Appeal decision, and also the fact that he had an older wife who was not well. Now, as I say, the Full Court did give regard to those special circumstances but the Court of Appeal gave even more regard to them and reduced the sentence further, but what does clearly emerge is, that it was the special circumstances of Harrington which caused the sentence on Harrington to be reduced, now as we believe, the Solicitor General has correctly said that this had a domino effect for reasons we fully understand, but having reduced the sentence on Harrington, who was undoubtedly, as was said at the time, the person who initiated the conspiracy, in fairness to the other persons involved there had to be corresponding reductions because they were less blame-worthy, in the case of Pinto his sentence was reduced to eighteen months and, in the case of da Encarnacao whose sentence was reduced to twelve months; and therefore those were special circumstances. As I've said the Court of Appeal emphasized that it was making no change whatsoever in sentencing policy. Therefore in order that one should be consistent in deciding whether in fact eighteen months for Boyle is accepted, one has to have regard not merely to the Harrington and Pinto case but also to all the other cases which have been cited this morning, and when we look at all those other cases, this Court unanimously can find no inconsistency whatsoever between the sentences passed on the other defendants and the sentence passed on Boyle, and therefore the only argument in favour of reducing the sentence which could influence this Court in granting an extension of time in which to give leave to appeal is the one case on which Counsel relied, that of Harrington, but as I've already endeavoured to point out, Harrington was a special case because the Court of Appeal found there that there were special circumstances just as the Full Court had found there were special circumstances, but as I've said the Court of Appeal found that there were even more special circumstances than the Full Court found. As I say, one cannot take one case in isolation when making comparisons, one has to take all the other recent cases, and when we look at all the other cases we find that the sentence of eighteen months passed on Boyle is fully in line with all the cases and that the reduction in sentence of Harrington and in consequence, on the domino theory, on the other two persons involved was a one off situation based on very special circumstances, and therefore the Court rejects the application for an extension of time, not only because it is important that the rules should be obeyed but also on the ground that there are no special circumstances of an important character which are disclosed because, again looking at the wording of Archbold, it is not the opinion of this Court that if an extension of time were to be granted there would be any likelihood of a successful appeal.