

IN THE ROYAL COURT OF JERSEY (INFERIOR NUMBER)

H M Attorney General -v- Andrew Francis Frain

Appeal against sentence imposed by the Assistant Magistrate on the 15th March, 1985, of four months' imprisonment for importing a class B drug into the Island and sentence of one month's imprisonment (concurrent) for possessing a hypodermic syringe.

DEPUTY BAILIFF: Persons who import drugs illegally into this Island must normally expect to receive a prison sentence unless there are exceptional circumstances which might be circumstances relating to the person or possibly the amount might be minute. In this case, the circumstances relating to the actual importation were not exceptional, there was a deliberate importation, an address was used which would mislead the police, it was a fairly substantial amount and it was a Class B drug and therefore we cannot say in principle that the Magistrate erred. Likewise, when we come to consider the amount of sentence, we cannot say that he imposed a manifestly excessive sentence. Now, having said that and having said that the Magistrate was right, we are nevertheless going to exercise our discretion which we can do as an act of mercy, having read the letter from the mother of the appellant's child and having considered all the circumstances as well, we are going to vary the sentence, as an act of mercy, I repeat, Mr Renouf, and not because we think the Magistrate was wrong. Stand up. You are going to be fined on charge 1 £375 or, in default, 4 months' imprisonment, on charge 2 £25 or, in default, 1 month concurrent. There will be no time to pay. That means that you will stay in custody until you find the money and you will have your legal aid costs, Mr Renouf.