

A.G. -v- Alexander BrownCourt of Appeal

1st July, 1985

BAILIFF: "The court has considered this case extremely carefully as it is right to do when the Inferior Number increases the conclusions. But the Court has come to the conclusion that the sentence eventually passed, of 18 months imprisonment, was not manifestly excessive. This was a Class A drug, it was imported by the appellant for gain, in other words, he was bringing a Class A drug into this Island to sell for profit and thus adding to the supply of drugs in the Island and he has a previous conviction for importing a Class B drug, admittedly for his own personal use, but nevertheless he had already been involved in the drug scene. Looking at the authorities, if one looks at Thomas' "Principles of Sentencing" page 185 and 186 and page 190, in our view, 18 months imprisonment for this quantity of LSD imported to sell is in no way excessive. Comparing this sentence with the two local cases cited to us, we do not think that the case of O'Brien, the more recent case, is a case which can be compared with it at all because O'Brien was under 21 and there were certain special considerations. As regards Schulkind, again it is always difficult to make a direct comparison, we notice for example, that in Schulkind, there was involved in that case a person who was notorious in the drug scene and there may well have been special circumstances taken into account there. But even if the sentence of 18 months imprisonment in this case is rather more severe than the sentence passed in Schulkind, it has to be borne in mind that the Schulkind case was over 2 years ago and this Court is entitled, in passing sentence, to reflect the mischief which this Court has to try to remedy, and the importation of drugs and particularly of hard drugs, of all drugs but even more so Class A drugs, is a menace which, as the full Court said only last week, is one which the Court must use all its powers to discourage, and in relation to that, mention was made of the case of Price last week, that is a case which of course, is a case which this Court remembers very clearly. It was quite a different sort of case - first of all, it was a Class B drug and secondly the importation was not initiated by the person who appeared before the Court,

it was initiated by someone else, he was acting merely as a courier and there was some doubt as to what profit he would have made on it. So it is very difficult to compare one case with another, unless one knows every single fact. What was clear to us, and what was the principal reason behind the sentence imposed by the Inferior Number was that this was a Class A drug, it was being imported for profit and it is the duty of this Court, by its sentencing, to seek to discourage in every way it can, the importation of drugs into this Island because the importation of drugs is a menace to this Island as it is to every other place and therefore the Court does not find that the sentence of 18 months imprisonment was manifestly excessive.