

ROYAL COURT
(Superior Number)

25th January, 1989

Before: The Bailiff and
Jurats Coutanche, Vint, Lucas,
Myles, Le Boutillier, Bonn,
Orchard and Gruchy

Her Majesty's Attorney General

- v -

Joseph Martin Clohessy
and
Christopher Mark Roberts

Sentencing

Guilty plea: Clohessy: Count 1: Importation of
controlled drug: 3 yrs. concurrent; Count 2:
Importation of controlled drug: 3 yrs. concurrent;
Count 3: Possession of controlled drug: 3 yrs.
concurrent; Count 4: Supplying controlled drug:
3 yrs. concurrent.

Guilty plea: Roberts: Count 1: Possession of
controlled drug: 12 months concurrent;
Count 2: Possession of controlled drug:
21 months concurrent; Count 3: Supplying
controlled drug: 21 months concurrent;
Count 4: Supplying utensils:
12 months concurrent.

The Attorney General for the Crown
Advocate A.P. Roscouet for Clohessy
Advocate B.I. Le Marquand for Roberts.

JUDGMENT

THE BAILIFF: The first thing the Court desires me to say is that the Court is mindful of its duty to deter all traffickers in illegal drugs by ensuring that adequate and sufficient penalties are imposed. I draw counsels' attention to the Home Office pamphlet of the 12th May, 1988, which was a reply to a call to decriminalize certain drugs, notably cannabis, in which that approach was rejected. The Home Secretary made five main points in that pamphlet, one of which was the deterring of drugs traffickers by high maximum penalties. The time is coming when this Court will consider most seriously whether its level of penalties is high enough for traffickers. Having said that and having seriously considered whether we should impose higher sentences than those asked for by the Attorney General, we felt it would be unfair and leave a sense of injustice if we did so on this occasion for these offenders. Nevertheless the Court is satisfied, so far as Clohessy is concerned, that he went into this with an open mind. He has been quite frank about it; he knew he was running a risk and he has not sought - and it is to his credit - to wriggle out of it. Nevertheless, it was a clear case of trafficking and we cannot find it appropriate to reduce the conclusions. They are therefore granted; you are sentenced to three years.

So far as Roberts is concerned, he was a willing partner in what took place. He did not know quite as much and he did not do as much, but nevertheless he used his premises for the storage and the supply of cannabis and we think the Attorney General has made adequate and proper distinction between the two accused and the mitigating factors and again we cannot see any reason to depart from the conclusions asked for and you are therefore sentenced, Roberts, to 21 months in total.

I wish also to say this, so far as Aramah is concerned, of course we have examined that case, but it is no more than a guideline to this Court. It is not binding and as we have said in the past, we are inclined to have a slightly stricter approach in respect of drugs; and as counsel will gather from what I have said at the beginning, that approach is going to be continued, if not, indeed, increased.

Authority

John Uzu Aramah: Cr. App. R. 1982 p.190.

Thomas: Principles of Sentencing (2nd Edn) pp. 184/5

A.G. -v- Reid and Another (16th January, 1986) Jersey Unreported.

A.G. -v- McConnachie (19th September, 1986) Jersey Unreported.

MacCorley (1979) 1 Cr. App. R. (S)

Platt (1980) 2 Cr.App.R. (S)

Lawless (1980) 3 Cr. App. R. (S)

MacDonald (1983) 5 Cr. App. R. (S)