

ROYAL COURT

15th April, 1991

53.

Before: The Bailiff, and
Jurats Bonn and Le Ruez

Police Court Appeal: Stephen Edward Wells

Appeal against a total sentence of six weeks' imprisonment imposed, following convictions on one charge of importation, one charge of possession of a controlled drug, namely cannabis resin, and one charge of possession of two wooden pipes for the purpose of smoking the said controlled drug.

M.C. St. J. Birt, Esq., Crown Advocate.
Advocate J.C. Gollop for the appellant.

JUDGMENT

BAILIFF: This is an appeal by Stephen Edward Wells against the imposition by the Relief Magistrate of a sentence of six weeks' imprisonment in respect of three related drug offences which amounted, in effect, to the importation of a small piece of cannabis for his personal use.

Quite rightly, Mr. Gollop for the appellant, has not sought to suggest that a sentence of imprisonment should not have been imposed for an offence of this nature; this Court has held time and time again that unless there are exceptional circumstances, importing drugs into this Island will carry with it a sentence of imprisonment. But Mr.

Gollop has suggested that a sentence of six weeks' imprisonment (concurrent) for these offences was manifestly excessive.

We can dispose of this appeal very quickly by saying that in our view if we are going to examine every type of sentence in the light of other cases which have been cited to us, the work of this Court would come to a full-stop.

The sentence has to be manifestly excessive, that is to say, it has not just got to be one which we might not have passed had we been sitting, it is one which, as Mr. Birt has said, using the adverb in its proper sense, it is manifestly excessive. We cannot say that a sentence of six weeks for importing cannabis was manifestly excessive and therefore the appeal is dismissed.

I should just like to quote a few words of Dunn L.J. from an English case, R -v- de Havilland (1983) 5 Cr. App. R. (S) 109. It is true that this was a Court of Appeal case, but for the purposes of my argument it is equally applicable here.

".....we think it desirable to say a few words about the increasing practice of citing decisions of this Court relating only to sentence. Apart from the statutory maxima and certain other statutory restrictions, for example, those on the sentencing of young offenders, the appropriate sentence is a matter for the discretion of the sentencing judge. It follows that decisions on sentencing are not binding authorities in the sense that decisions of the Court of Appeal on points of substantive law are binding both on this Court and on lower courts. Indeed they could not be, since the circumstances of the offence and of the offender present an almost infinite variety from case to case. As in any branch of the law which depends on judicial discretion, decisions on sentencing are no more than examples of how the Court has dealt with a particular offender in relation to a particular offence. As such they may be useful as an aid to uniformity of sentence for a particular category of crime; but they are not authoritative in the strict sense. Occasionally this Court suggests guidelines for sentencers dealing with a particular category of offence or a

particular type of offender..... . But the sentencer retains his discretion within the guidelines, or even to depart from them if the particular circumstances of the case justify departure. The vast majority of decisions of this Court are concerned with the facts and circumstances of the particular case before it and are directed to the appropriate sentence in that case. Each case depends on its own facts".

That is perfectly clear, and in this particular case we see no reason for disturbing the sentence. Mr. Gollop, you shall have your legal aid costs.

Authorities referred to:

- Thomas' "Principles of Sentencing" (2nd Ed'n) p.p. 197-204.
A.G. -v- Breese (11th December, 1989) Jersey Unreported.
Thomas' Current Sentencing Practice: p.p. 2501-2502.
A.G. -v- Sweeney (6th February, 1990) Jersey Unreported.
A.G. -v- Coll (9th July, 1990) Jersey Unreported.
R. -v- de Havilland (1983) 5 Cr. App. R. (S) 109.