

ROYAL COURT

17th September, 1991

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Before: The Deputy Bailiff, and  
Jurats Coutanche and Vibert

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The Attorney General

- v -

Alan Scott

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Police Court Appeal: Appeal against  
sentence of two months' imprisonment  
for importation/possession of  
controlled drug.

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W.J. Bailhache, Esq., Crown Advocate;  
Advocate A.D. Robinson for the appellant.

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**JUDGMENT**

DEPUTY BAILIFF: This appellant was sentenced by the Police Court on the 23rd August, 1991, to two months' imprisonment for importation of herbal cannabis, and to two months' imprisonment concurrent for possession of the same herbal cannabis, thus making two months' imprisonment in all.

The ground on the notice of appeal, prepared by the appellant personally, without legal assistance, is in effect a plea for leniency or mercy and is interpreted by us as a claim that the sentence imposed was manifestly excessive.

The appellant came to Jersey on holiday. He says that he has a small business at home, that he has been struggling to keep going this last year, that he now has a contract which will give him sufficient funds to clear his debts, and may lose it if he has to serve a sentence of imprisonment. He claims that he is an honest, hardworking man now and has started on a career to keep him out of trouble. If he loses the contract it will ruin him, he says.

The facts can be briefly stated: The appellant arrived on the m.v. Rozel at the Elizabeth Terminal on the morning of the 23rd August. Customs Officer Cockerham stopped him and during a search of his pockets it became evident that there were signs of drug abuse. When the appellant was asked if he had ever used drugs he said that he had smoked cannabis. The appellant was taken to an interview room where he was asked if he had any drugs in his possession. He replied "yes" and produced a plastic bag from inside his underpants. This was tested and proved positive for cannabis. He said that he had purchased the drug in England and that it was intended for his personal use. The amount involved was three grammes of herbal cannabis. No further prohibited items were found and the appellant was cooperative. Clearly, he knew that importation of cannabis was illegal and he concealed it in his underpants because he did not expect a body search.

The appellant's record shows that he has previous convictions for possession of cannabis on two occasions, for possession of amphetamine, and furthermore, as recently as the 20th May of this year the appellant was convicted in Manchester for possession of heroin.

The policy of this Court has been very clearly stated on numerous occasions. Any importation of even a Class B drug should be met by a custodial sentence unless there are exceptional circumstances. Any second or subsequent conviction for simple possession of even a Class B drug should likewise be met by a custodial sentence unless there are exceptional circumstances.

There were no exceptional circumstances here. Therefore, a custodial sentence was correct in principle in respect of both charges.

This case could well have been dealt with under Article 17(2) of the Police Court (Miscellaneous Provisions) (Jersey) Law, 1949, which provides that if, at any stage of the proceedings, this Court is of the opinion that the appeal is frivolous or vexatious, it may forthwith dismiss the appeal.

However, the hearing of the appeal enables us to declare our support for the recent statement of policy by the Police Court Magistrates of their intention to apply a more severe sentencing policy in relation to drugs than hitherto, even in the case of first offenders. The long gap in the appellant's record of drug offences avails him nothing when he revives those offences by dabbling in heroin only a few months ago.

The sentence imposed in the instant case was correct in principle and was not manifestly excessive. The appeal is dismissed. Advocate Robinson will have his legal aid costs.

No authorities.