

ROYAL COURT
(Superior Number)

181.
4th December, 1991.

Before: The Deputy Bailiff and
Jurats Blampied, Hamon, Gruchy,
Vibert and Herbert.

Attorney General

- v -

Brian Cappie

and

Robert Edward Hailwood

OFFENCE:

- (1) Conspiracy to import a controlled drug.
- (2) Conspiracy to supply a controlled drug.

PLEA:

Guilty.

DETAILS OF OFFENCE:

Defendants were young employed Liverpoolians. They came to Jersey with 10 grams (approx. 85 tablets) of M.D.M.A. (ecstasy), street value approximately £2,125. They intended to sell the tablets at a rave that evening, keep £500, and pay the balance to the supplier. They were arrested on arrival.

DETAILS MITIGATION:

Youth. Good character. Financial hardship. Not too bright. Cappie within Art. 18 of Children's Law - might have been dealt with

differently if co-defendant not over 21. Hailwood medically unfit: congenital kidney defect exacerbated by use of corrupted drugs. Increase in drug offences showed deterrent sentences not working.

PREVIOUS CONVICTIONS:

Cappie: None; Hailwood: two minor irrelevant convictions.

CONCLUSIONS:

Cappie - 3 years' imprisonment on each count concurrent.
Hailwood - 3 years' imprisonment on each count concurrent.
Drugs to be forfeited and destroyed.

SENTENCE AND OBSERVATIONS OF THE COURT:

No room for mitigating circumstances in drug offences. Defendants young, but this a deliberate commercial venture. Supplier not named. Hailwood's disability an aggravating factor: having suffered himself he was willing to supply possibly contaminated drugs to other young people.

Miss S.C. Nicolle, Crown Advocate.

Advocate R.G. Morris for both accused.

DEPUTY BAILIFF: Once again it is clear that the accused have not identified their supplier. Therefore, they have to take full responsibility for their actions.

In the case of drugs, the Court has already said, on more than one occasion, that the usual strong mitigating factors of being first offenders and of youth, will not carry much weight.

Cappie, although twenty, was in some senses the prime offender, in that he actually carried the drugs.

In the case of Hailwood, the Court has no sympathy on medical grounds. There is ample provision in the Prison Law for transfer to Hospital in case of need. It could even be said that Hailwood's condition is an aggravating factor. He appears to have suffered from taking contaminated ecstasy - and yet he was willing to participate in the sale of ecstasy to young persons in Jersey, thus putting them at risk of similar injury. The drugs were obtained from a supplier in or about public house. Cappie and Edward Hailwood had no guarantee of the purity of the drug.

Both accused, carried out an illegal commercial venture from motives of greed. A deterrent sentence is essential. If the Court were satisfied that its current deterrent sentences never work, as Mr. Morris suggests, then it would consider moving closer to the statutory maximum.

We have examined a number of Jersey cases in view of what Mr. Morris said. It is true that in A.G. v. Fogg a sentence of seven and a half years was reduced on appeal to six years. But that did not deter the Superior Number in the case of A.G. v. Pockett from imposing four and a half years for importation of seventy-three L.S.D. tablets with intent to supply.

Although Mr. Morris said everything that could be said, because truly there can be little mitigation in the case of hard drugs - we have no doubt that the conclusions are correct and justified.

Therefore, Cappie and Hailwood you are each sentenced to three years imprisonment on each of the two counts brought against you but those sentences to be concurrent, making a total of three years imprisonment and the Court orders that the drugs be forfeited and destroyed.

Authorities

A.G. v. Fogg (8th April, 1991) Jersey Unreported. C. of A.

A.G. v. Pockett (16th April, 1991) Jersey Unreported.