

ROYAL COURT
(Superior Number)

27.

26th February, 1992

Before: The Bailiff, and Jurats Coutanche, Vint,
Blampied, Orchard, Hamon, Gruchy, Vibert, and Rumfitt.

Her Majesty's Attorney General

-v-

Justin Lee Coutanche

Remanded by the Inferior Number on 14th February, 1992, for sentencing on:

- 2 Counts of supplying a controlled drug, contrary to Article 5 of the Misuse of Drugs (Jersey) Law, 1978. (Count 1 & 4 of the Indictment).
- 1 Count of possession of a controlled drug, with intent to supply, contrary to Article 6 (2) of the Misuse of Drugs (Jersey) Law, 1978. (Count 2).
- 1 Count of conspiracy to import a controlled drug, contrary to Article 23 of the Customs and Excise (General Provisions) (Jersey) Law, 1972. (Count 3).
- 4 Counts of possession of a controlled drug, contrary to Article 6 (1) of the Misuse of Drugs (Jersey) Law, 1978, (Counts 5, 6, 7, 8.)

DETAILS OF OFFENCE:

Coutanche acted as a "safe house", stowing drugs for others over period of at least 6 months. He imported and sold 1 kilo of cannabis. He claimed not to have acted with commercial motives but to feed his cocaine addiction. He admitted to consuming £1,500 worth of drugs each week. Total value of different drugs found in his possession £4,000.

DETAILS OF MITIGATION:

He began using cannabis at age 12 and was said to have been targeted by drug dealers when aged 16. Described by Consultant Psychologist as "human tragedy of this young man" and "wasted life".

PREVIOUS CONVICTIONS:

None.

CONCLUSIONS:

Total of 4¹/₂ years' imprisonment.

**SENTENCING AND OBSERVATIONS
OF THE COURT:**

Conclusions granted.

REMARKS:

Defence called Mr. Hollywood, Consultant Psychologist. Prosecution equated Coutanche's involvement in drugs with that of Clarkin, i.e. starting point of 7-8 years, discounted to 4¹/₂ years.

Court said it was no mitigation that there was no commercial motive, that he was driven by addiction.

Attorney General

Advocate D.E. Le Cornu for accused

JUDGMENT

BAILIFF: The Court regards this case as one of the most serious drug abuse cases that it has had before it for a long time, both as regards the degree of involvement and the quantity and nature of the drugs themselves. In the recent case of Bouhsine, (10th February, 1992) Jersey Unreported, which was before the Court only some weeks ago, the Court said this, and I am going to read two passages because they are as apposite to

this case as they were to that case. I should add that the Bouhsine case concerned cannabis resin and heroin; it was mainly heroin but that didn't alter the fact that he had started on cannabis. This is what the Court said:

"This case should stand out as a dire warning to those who would legalise cannabis, or at least not prosecute its possession. This young man regularly smoked cannabis from the age of 15. However, at the beginning of last year, when he was 18, he graduated to LSD. In the course of 1991, when he was still eighteen he became, on his own admission, a heavy user of ecstasy and amphetamine sulphate. LSD and ecstasy are dangerous Class A drugs. This case demonstrates the fact that regular cannabis users will, after a time, try ever stronger drugs. The policies of the Courts of the Island are vindicated by cases of this kind.

Bouhsine was a drugs dealer. He admits that he subsidised his drug habit by buying drugs for friends. They would give him the money to obtain drugs with additional funds to purchase drugs for himself. That made him a dealer and supplier."

In this case also Coutanche was a drugs dealer in cannabis on a fairly large scale using a courier to import it; it may also be said that he was a dealer, by exchanging other drugs as a means to obtaining drugs for himself, particularly cocaine. It is no mitigation, in our view, that he needed to use cocaine for his own purposes and not for supplying. That principle is made clear by Dolgin's case, (1988) 10 Cr. App.R. (S) 447.

We were invited by Mr. Le Cornu, quite fairly and properly, to see if there were any exceptional circumstances that might allow the Court to depart from its policy of imposing a prison sentence in cases such as the present one.

The main reason advanced by Mr. Le Cornu was that Coutanche wishes to receive treatment, which it is said he has already started under Mr. Hollywood, the psychologist; that treatment could not be completed in prison, and therefore he

should be allowed to attend Alpha House which specialises in the treatment of persons who are dependant on drugs.

Secondly, Coutanche was more a victim than anything else, of evil men who very early on, when he was twelve or thirteen, introduced him to drugs and encouraged him in the bad habit of drug abuse.

Thirdly, his dependence on drug abuse became so great that in effect he was the equivalent of an alcoholic.

There are other matters of mitigation in connection with this case such as the fact that he is a first offender, that he is very young, that he was co-operative with the police - it is true he didn't give the names of the persons to whom he had supplied drugs or with whom he dealt but he withheld them out of fear, and that is understandable - and lastly his guilty plea.

But, against that, one must take into account his behaviour as regards drug dealing, which went back over a long period to at least six months before his arrest in May, 1991, and the degree of his involvement. There is no doubt, in our view, that he helped distribute different types of drugs widely in the Island and contributed to the attendant misery which drug abusers impose not only on the users themselves but on their friends and families. There is some suggestion - it is no stronger than that, and the Attorney General very rightly drew our attention to it - that he was doing rather more than acting as a safe house for persons who wanted to leave drugs with him in exchange for the drugs he needed, inasmuch as we had produced to us a note which was found in his possession which indicates certainly that some money was involved in these transactions. I say no more than that but that note indicates a very wide degree of involvement. We are further asked to conclude - and it is a fair deduction I think - that to get through nearly £6,000 in a relatively short time, partly made up of a legacy and partly of an insurance policy, and to carry on dealing with drugs by way of exchange in the way explained

o us, indicates a considerable involvement in the drugs trade, over quite a long period of time.

Therefore, after considering the matter very carefully we have come to conclusion that there are no special circumstances which would entitle us to depart from our general policy.

We now turn to the question of the sentence itself. The Attorney General suggested that the bench mark should be seven or eight years, and we agree with that; that is the figure which the Court of Appeal itself has laid down in Clarkin (3rd July, 1991) Jersey Unreported, C. of A. On the basis that even if we take the lower figure of seven years, the Attorney General has made a considerable reduction in his conclusions to four and a half years, and therefore, after taking all the mitigating factors fully into account, the conclusions are granted and there will be an Order for the forfeiture and a destruction of the drugs.

Authorities

Dolgin (1988) 10 Cr. App. R. (S). 447.

AG -v- Clarkin & Pockett (3rd July, 1991) Jersey Unreported C.of A.

AG -v- Cappie & Hailwood (4th December, 1991) Jersey Unreported.

AG -v- Bouhsine (10th February, 1992) Jersey Unreported.

AG -v- Stratton, McKenzie & Coombs (22nd November, 1991) Jersey Unreported.

AG -v- Saunders & Others (31st May, 1991) Jersey Unreported.