

ROYAL COURT

(Superior Number)

160

10th September, 1992

**Before: P.R. Le Cras, Esq., Lieutenant Bailiff
and Jurats Coutanche, Myles, Bonn, Hamon, Orchard,
Gruchy, Le Ruez, Herbert, Vibert, and Ruffitt.**

The Attorney General

- v -

Gary Nicholas Davies

Sentencing, following guilty plea before the Inferior Number on 21st August, 1992, to 1 Count of Importation of a controlled drug contrary to Article 23 of the Customs and Excise (General Provisions) (Jersey) Law, 1972.

AGE: 25

PLEA: Guilty

DETAILS OF OFFENCE:

These followed the all too familiar drug courier pattern. On 27th May, 1992, Defendant arrived at our airport from Manchester. Special Branch questions revealed that he lived in Liverpool, was unemployed and save for his return ticket had no assets. Nervous and evasive. Passing through green channel was then handed over to customs who questioned him and searched him. He denied having anything concealed in his body. He eventually agreed to x-rays which revealed presence of unnatural objects in the area of his bowel. When asked if these were drugs he denied it. He then said he was a Registered drug addict and requested a doctor so was transferred to Police Headquarters where he then admitted inserting packages containing drugs in his rectum but could not say what type. In "drug loo" 2 packages were evacuated which on analysis contained 181 tablets plus broken tablet pieces of "Speed" with a total weight of 5.696 grams of Amphetamine Sulphate having a local street value of £4,500 for which the Defendant was to receive £150 as the Courier. The tickets had been purchased for him. He did not identify his supplier or who was to receive the Speed in Jersey, save that his name was Jason.

DETAILS OF MITIGATION:

Having "sacked" his advocate the night before sentencing and refused the Court's offer of an alternative advocate, the Defendant represented himself. When the S.G. had completed his submissions and moved for sentence, the Defendant addressed the Court at some length but what he said was largely inaudible to the S.G. However, all the defendant said was painstakingly taken down by the presiding judge who repeatedly encouraged him to say anything else that he wanted to say. In the course of his summary, the

S.G. said that the Defendant's remorse was reflected in his guilty plea. Although less than frank to begin with he had, when faced with the results of the x-rays, eventually co-operated with the customs officers falling short of fully identifying the supplier and the consignee. He came from an area where unemployment is rife and to that extent (by comparison with Jersey's youngsters) could fairly be described as "deprived". He had a wife who was said to be pregnant and 2 young children. It was not entirely clear if he ordinarily resided with them. The Probation Background report had been studied by the Court and did not reveal a deprived parental background. Indeed, his parents were described as close and supportive.

PREVIOUS CONVICTIONS:

13 Court appearances involving convictions for 22 separate offences, 14 of which involved dishonesty and 2 of which were for possession of a controlled drug. His first offence was at the age 12 and in October 1991, a 90 day prison sentence was suspended for 1 year.

CONCLUSIONS:

Jersey's legislature does not, at present, differentiate between the maximum sentence for importation of Class A and Class B drugs. In both cases it is 14 years imprisonment. It was submitted that there was need to review the sentencing policy for this category of offender, i.e., the Courier of Class B drugs. Moved for deterrent sentence of 3 years imprisonment.

SENTENCE:

Conclusions granted. For the Court's observations see below

The Solicitor General.

The accused on his own behalf.

JUDGMENT

THE LIEUTENANT BAILIFF: The Court has considered, with great care, the submissions of the learned Solicitor General and the points advanced by you, Davies, in mitigation.

We accept that you were a courier, and we note that there was little personal profit for you in what you did. However, we also note that the practice of using couriers is

on the increase and we take note, in particular, of the Judgment of the Court of Appeal in Schollhammer and Reissing (14th July, 1992) Jersey Unreported. C. of. A.

Despite the miserable situation of your family, we have come to the decision that the conclusions of the learned Solicitor General are correct and should be granted. You will therefore be sentenced to three years' imprisonment, and the drugs, Mr. Solicitor, will be destroyed.

AUTHORITIES

A.G. -v- Thomas (15th November, 1991) Jersey Unreported.

A.G. -v- Schollhammer (5th March, 1992) Jersey Unreported.

Schollhammer -v- A.G; Reissing -v- A.G. (14th July, 1992) Jersey
Unreported. C. of. A.

A,G. -v- Clohessy (25th January, 1989) Jersey Unreported.

Thomas: "Principles of Sentencing" (2nd Ed'n) p.p.184-9.

Misuse of Drugs (Jersey) Law, 1978: Article 27 (2)