

ROYAL COURT
(Superior Number)



16th August, 1993

Before: The Bailiff, and Jurats
Vint, Blampied, Bonn, Orchard,
Hamon, Gruchy, La Ruez,
Herbert, Rumfitt.

The Attorney General

- v -

Peter James Wall

Sentencing, (following "Newton" hearing) after guilty plea before the Inferior Number on 15th June, 1993, to:

5 counts of possession of a controlled drug, contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978 (count 1 of the Indictment [methylenedioxymethamphetamine]; count 3 [lysergide]; count 5 [amphetamine sulphate]; counts 7 & 8 [cannabis resin]).

3 counts of possession of a controlled drug, with intent to supply, contrary to Article 6(2) of the said Law (count 2 [methylenedioxymethamphetamine]; count 4 [lysergide]; count 6 [amphetamine sulphate]).

AGE: 26

PLEA: Guilty

DETAILS OF OFFENCE:

Following search of Wall's home he was found to be in possession of 20 ecstasy tablets (street value £500), 9 L.S.D. tabs (street value £63), 8 amphetamine sulphate tablets (street value £200) and two small amounts of cannabis resin. He claimed that the drugs had been given to him for safe-keeping. This version of events was found to be untrue on a Newton hearing.

DETAILS OF MITIGATION:

Relative youth, plea of guilty (he did not lose the appropriate credit for a guilty plea by virtue of the Newton hearing).

PREVIOUS CONVICTIONS:

Mostly motoring offences. One offence of possession of dipipanone whilst a juvenile. Disregarded by Court for purposes of sentencing.

CONCLUSIONS:

4 years imprisonment for Class A possession with intent to supply (counts 2, 4.)
2½ years imprisonment for Class A possession (counts 1, 3.)
2 years imprisonment for Class B possession with intent to supply (count 6.)
15 months imprisonment for class B possession (count 5.) - all concurrent.
£225 fine for possession of cannabis resin (counts 7, 8.)

**SENTENCE AND OBSERVATIONS
OF THE COURT:**

Conclusions granted save for imposition of 1 week concurrent sentences on cannabis charges. Wall's position as head doorman regarded as a factor which diminished value of mitigation rather than as an aggravating factor. Starting point of 6 years imprisonment appropriate.

**A.R. Binnington, Esq., Crown Advocate.
Advocate P.M. Livingstone for the accused.**

JUDGMENT

THE BAILIFF: The Court is unanimous in finding that the prosecution has proved its case according to the version of the facts which they have put forward.

However the starting point for sentencing, which you have mentioned, Mr. Binnington, is, we think, too high. We think that the proper starting point is one of six years. Before announcing our decision, I wish to say that the Court did not consider the previous conviction on a drugs offence to be something which would seriously affect our decision; it was a long time ago and we regard Wall as a first offender as regards drugs.

Nevertheless, this is a serious case. Possession of a Class A drug with intent to supply, particularly in the circumstances in which you found yourself, Wall, means that you have to have a substantial prison sentence.

The aggravating factor which the Crown mentioned is only aggravating to the extent that it detracts from the rest of the mitigation. In other words there is some mitigation which your counsel has very fully put before us; but as against that we are entitled to balance and we have balanced the fact that you were in a position of trust, and you abused that trust and could have assisted in the spread of dangerous drugs among young people in circumstances that do you no credit.

Under all the circumstances, even looking at the cases which you have fully set out, Mr. Livingstone, for the use of the Court, and particularly that of A.G. -v- Holmes (10th March, 1993) Jersey Unreported, together with the others, we have come to the conclusion that the sentences asked for by the Crown are right, and that the proper deduction from the starting point is one of two years.

Accordingly therefore you are sentenced on count 1, to 2½ years' imprisonment; on count 2, to 4 years' imprisonment; on count 3, to 2½ years' imprisonment; on count 4, to 4 years' imprisonment; on count 5, to 15 months' imprisonment; on count 6, to 2 years' imprisonment; all concurrent, making a total of 4 years' imprisonment. As regards the cannabis there were such small amounts involved that we think the proper sentence is one week's imprisonment concurrent; and one week's imprisonment concurrent. There will be an Order for the forfeiture and destruction of the drugs.

Authorities

Newton (1982) 4 Cr.App.R.(S.) 388.

Stevens (1986) 8 Cr.App.R.(S.) 297.

Williams & Ors. (1990) 12 Cr.App.R.(S.) 415.

A.G. -v- Douglas (4th December, 1992) Jersey Unreported.

A.G. -v- Johnson (26th October, 1992) Jersey Unreported.

A.G. -v- Reissing (26th March, 1992) Jersey Unreported.

A.G. -v- Holmes (10th March, 1993) Jersey Unreported.

A.G. -v- Bevis (17th May, 1993) Jersey Unreported.