

ROYAL COURT
(Samedi Division)

107.

26th May, 1994

Before: The Bailiff, and Jurats
Vint, Myles, Orchard, Gruchy, Le Ruez,
Vibert, Herbert, Rumfitt.

The Attorney General

- v -

James George Neild

Sentencing by the Superior Number, to which the accused was remanded by the Inferior Number on 22nd April, 1994, following guilty pleas to:

- 1 count of possession of a controlled drug (lysergide) with intent to supply, contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978 (Count 1 of the Indictment).
- 4 counts of possession of a controlled drug, contrary to Article 6(1) of the said Law (Count 2: lysergide; Count 3: MDMA; Count 4: amphetamine sulphate; Count 5: cannabis resin).

AGE: 27.

PLEA: Guilty.

DETAILS OF OFFENCE:

Police found at defendant's flat 1,000 tabs LSD which he said he had collected from a contact address for transmission to a supplier [Count 1]. They also found one square LSD [Count 2]. One MDMA [Count 3] and a personal amount of amphetamine sulphate [Count 4]. At his girlfriend's house they found cannabis (roach ends) which he said were his [Count 5].

DETAILS OF MITIGATION:

[Counts 2 and 3]. Was given the tabs. Did not intend to take the LSD. Thought MDMA was speed. [1] Not commercial involvement - introduced a friend to a drug dealer. Friend welched on debt and dealer held Neild responsible. Neild paid some money then to get out of paying further £200 agreed to collect envelope from given address and retain it for collection by dealer. Remorse. Devastated by effect on family.

PREVIOUS CONVICTIONS:

Extensive record of juvenile dishonesty. One conviction [1992] for possession of Class B drug - fined £100.

CONCLUSIONS:

Count 1: 6 years' imprisonment.
Count 2: 1 year's imprisonment.
Count 3: 1 year's imprisonment.
Count 4: 2 months' imprisonment.
Count 5: 1 month's imprisonment.
All concurrent.

SENTENCE:

Count 1: 5 years' imprisonment.
Counts 2-5: conclusions granted.
All concurrent.
Drugs forfeited and destroyed.

**The Solicitor General.
Advocate S.J. Habin for the accused.**

JUDGMENT

THE BAILIFF: There is no need for me to repeat the words of the Court of Appeal in Clarkin, Pockett -v- A.G. (3rd July, 1991) Jersey Unreported C.of.A.; (1991) JLR 213. They are quite recent, in 1991. Being in possession with intent to supply of a Class A drug, to which Count 1 refers, is a very serious matter, whether it is intended to supply it on the commercial market or to return it to the person who gave it to you to keep - even if we accept that position. It is all part of putting on the market a very dangerous drug.

The accused in this case comes from a good family; he was well-educated and intelligent and he therefore knew full well exactly what he was doing. His business took him into the drug sub-culture where he organised 'raves', one might almost say an anti-social activity in a small island; but he is not being punished for that.

As I have said, this is a serious offence and we have had regard not only to what was said in the Clarkin and Pockett Judgment but to the effect of imposing anything other than a proper deterrent sentence. Yet we have examined carefully the passage on p.8 of the Clarkin and Pockett Unreported Judgment to which you, Mr. Habin, drew our attention in more detail and we have reached the conclusion that the accused's involvement in the drug scene was less than that of Fogq and that there appears to be

5 a gap between him and the source of supply. Therefore we think
the starting point asked for by the Solicitor General is too high.
We have therefore reduced the starting point to one of 8 years.
Having done that, we have then examined the 6 years asked for in
respect of Count 1 to see whether it was possible to reduce that
sentence substantially. Let me first dispose of Counts 2 and 3.
We see no reason for altering the Solicitor General's conclusions
at all. They relate, of course, to the possession of LSD and MDMA
- both dangerous drugs.

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The accused has pleaded guilty and that is, of course, a
mitigating factor, but as the Crown said, he was caught, so to
speak, redhanded, and had little option but to plead guilty.
Certainly, so far as supplying is concerned, that is a somewhat
15 different situation, but as far as possession is concerned he was
caught with the drugs on the premises. He has admitted being
involved in the way he was and that his behaviour could have added
to the circulation of a very dangerous drug amongst young people
in this Island. The nature of his work - which I have mentioned -
20 brings him into contact with young people and he must know, as an
intelligent man, that they are susceptible to suggestions of
taking drugs. Indeed in the report from the Alcohol and Drugs
Service Centre, Mrs. Goldie-Smith points out that in the drugs
sub-culture it seems to be accepted that drugs can be used with
25 the same freedom as alcohol and tobacco are used in the rest of
society. That is not a valid argument for using drugs because it
is quite clear that had one known with hindsight the effects of
alcohol and smoking (the Court can only suggest) it may well be
that society might have imposed restrictions on their use in the
30 same way as it has imposed restrictions on the mis-use of
dangerous drugs.

We have considered whether the fact that the accused said he
was in fear was something which would entitle us to apply
35 substantial mitigation. It may well be true that he was fearful
for his safety and that of his girlfriend, but the fact is he did
not co-operate with the police and it cannot be said too often
that as long as people who are involved in the drugs scene do not
do so and name their suppliers, those suppliers, who ought to be
40 punished severely, are going free.

Having examined the circumstances most carefully and in view
of the fact that we have reduced the bench mark by one year, we
think the appropriate sentence should also be reflected in that
45 reduction. Accordingly you are sentenced on Count 1, to 5 years'
imprisonment; on Count 2, to 1 year's imprisonment concurrent; on
Count 3, to 1 year's imprisonment concurrent; on Count 4, to 2
months' imprisonment concurrent; on Count 5, to 1 month's
imprisonment concurrent; and there will be the usual order for the
50 forfeiture and destruction of the drugs.

Authorities

Clarkin, Pockett -v- A.G. (3rd July, 1991) Jersey Unreported;
(1991) JLR 213.