

ROYAL COURT
(Samedi Division)

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15th June, 1994

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

The Attorney General

- v -

Peter Michael Carter

Sentencing by the Superior Number, to which the accused was remanded by the Inferior Number, on 20th May, 1994, following guilty pleas to:

- 3 counts of supplying a controlled drug, contrary to Article 5(b) of the Misuse of Drugs (Jersey) Law, 1978 (count 1 of the indictment: M.D.E.A.; count 2: L.S.D.; count 3: amphetamine sulphate);
- 3 counts of possession of a controlled drug with intent to supply it to another, contrary to Article 6(2) of the said Law (count 4: M.D.E.A.; count 5: L.S.D.; count 6: amphetamine sulphate); and
- 1 count of possession of a controlled drug (cannabis resin), contrary to Article 6(1) of the said Law.

AGE: 22 Male.

PLEA: Guilty.

DETAILS OF OFFENCE:

Accused arrested at Fort Regent. In possession of 16 wraps of amphetamine sulphate, paper squares and two tablets of MDEA. Subsequent search of his flat yielded further incriminating material. Accused had (it emerged) sold Class A drugs to a value exceeding £2,500 [Ecstasy = £2,450; LSD = £77]. Had sold Class B drugs [amphetamine sulphate] to the value of £1,200. Total street value of that sold and which he possessed £4,080. Had served in the army (and seen service in the Gulf War) but quit the army and found himself in increasingly difficult financial straits and thus became a target for drug dealers. He himself not an addict. He wanted quick money.

DETAILS OF MITIGATION:

Effectively first offender. Plea of guilty. Co-operation. Unsettled by Gulf War experience. Difficult home life in earlier years with stepfather.

PREVIOUS CONVICTIONS:

Effectively, none.

CONCLUSIONS:

Count 1: 4½ years' imprisonment.
Count 2: 3½ years' imprisonment.
Count 3: 2½ years' imprisonment.
Count 4: 4 years' imprisonment.
Count 5: 3 years' imprisonment.
Count 6: 2 years' imprisonment.
Count 7: 6 months' imprisonment.

All the sentences to run concurrently with each other.

Confiscation Order, under the Drug Trafficking (Jersey) Law, 1988 of £240.

SENTENCE:

Conclusions granted (on a majority decision). 7 years was the appropriate starting point before mitigation taken into account.

S.C.K. Pallot, Esq., Crown Advocate.
Advocate S.A. Meiklejohn for the accused.

JUDGMENT

THE BAILIFF: In the case of Wood -v- A.G. (15th February, 1994) Jersey Unreported C.of.A., the Court of Appeal at p.3 of the Judgment said this:

5 *"The purpose of referring to earlier cases is not to*
 analyse the exact sentence which was then passed and the
 precise reasons why the Court arrived at it. This would
 be an impossible undertaking since sentencing is a
10 *discretionary exercise in every case and the reports do*
 not include every feature which influenced the Court in
 exercising its discretion on earlier occasions".

15 That being so it is not necessary for me to attempt to
 analyse the cases which have been laid before us very carefully by
 Mr. Meiklejohn, in detail because, as he himself was at pains to
 point out, it was not necessary to do so, but they have been
 referred to.

20 We think that we have two duties: one is to decide on the
 facts of this case what the appropriate starting point or
 benchmark should be, and then make the appropriate deductions for
 a guilty plea and any other mitigating factors.

We accept the suggestion of the Crown that seven years' imprisonment is the appropriate starting point. There were some Jurats who felt that perhaps it should be six years but the majority were satisfied with seven.

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We have taken into account that these activities were carried out solely for profit and not for any other reason; they were not, for example, to assist an ailing member of the family, or for some other pressing reason of that nature, but solely as a means of livelihood. It cannot be emphasised too often that dealing in dangerous drugs, particularly as a livelihood merits a substantial prison sentence.

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Accordingly, the Court is going to grant the conclusions asked for, by a majority, and therefore, Carter, you are sentenced as asked for on the counts and in the figures given by the Crown, making a total of 4½ years' imprisonment. There will be the usual order for the forfeiture and destruction of the drugs.

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Authorities

Whelan: "Aspects of Sentencing in the Superior Courts of Jersey":
pp.29-30.

Clarkin, Pockett -v- A.G. (1991) J.L.R. 213.

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

Wood -v- A.G. (15th February, 1994) Jersey Unreported C.of.A.