

ROYAL COURT
(Samedi Division) 156

25th July, 1994

**Before: The Bailiff, and Jurats
Coutanche, Blampied, Myles, Orchard,
Hamon, Gruchy, Herbert and Rumfitt.**

The Attorney General

- v -

David William McDonough

Sentencing by the Superior Number, to which the accused was remanded by the Inferior Number on 1st July, 1994, following guilty pleas to:

- 1 count of being concerned in the supplying of a controlled drug (diamorphine), contrary to Article 5(c) of the Misuse of Drugs (Jersey) Law, 1978; and
- 1 count of possession of a controlled drug (amphetamine sulphate), contrary to Article 6(1) of the said Law.

AGE: 31

PLEA: Guilty

DETAILS OF OFFENCE:

(Cross reference McDonough, Proctor and Scott Jersey Unreported 15th June, 1994) 3.07 grams heroin (approx. £400 value) and 9 grams amphetamine (approx. £360 value) found at a house occupied by the accused's brother and the brother's two lodgers. After various explanations, the accused said that one of the lodgers had asked to be put in touch with heroin suppliers. As a favour and against the promise of a fee of £50 (which was never paid) the accused had effected the necessary introduction and the lodger had purchased from the unnamed supplier the heroin which had been found. As to the amphetamine, the accused said that only part belonged to him, and had been for personal possession.

DETAILS OF MITIGATION:

Plea of guilty; expressed wish to reform and engage in drugs counselling.

PREVIOUS CONVICTIONS:

Two for possession of Class B drugs.

CONCLUSIONS:

Count 1: 3 years' imprisonment.
Count 2: 9 months' imprisonment, concurrent.

SENTENCE:

Count 1: 2½ years' imprisonment.
Count 2: 9 months' imprisonment, concurrent.
Court unanimously of the opinion that significant custodial sentence necessary. Room for slight reduction to avoid disparity with the associated case of Proctor.

REMARKS:

This was the first case in which being concerned in supply had been charged. Crown submitted that the Clarkin/Pockett guideline should apply. The sentence imposed suggests that this is a proper approach.

**C.E. Whelan, Esq., Crown Advocate.
Advocate S. Slater for the accused.**

JUDGMENT

THE BAILIFF: In spite of what you have said, Mr. Slater, the Court is unanimously of the opinion that what your client did deserves a prison sentence. Although he was not supplying heroin, he was contributing to its supply and was therefore assisting to distribute this dreadful drug around the Island.

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However, in view of the associated Proctor case (15th June, 1994) Jersey Unreported, and the sentence that was imposed on him, we are not quite sure that we could follow the Crown's argument that there was the same degree of involvement as Proctor. Therefore we think that we can make a slight reduction in the conclusions asked for and you are sentenced as follows: on Count 1, to 2½ years' imprisonment; on count 2, to 9 months' imprisonment, concurrent. There will be the usual order for the forfeiture and destruction of the drugs.

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Authorities

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

Whelan: Aspects of Sentencing in the Superior Courts of Jersey:
p.p. 15-16.

A.G. -v- McDonough, Proctor, Scott (15th June, 1994) Jersey
Unreported.