

ROYAL COURT  
(Samedi Division)

22nd July, 1996

134.

Before: Sir Philip Bailhache, Bailiff, and  
Jurats Blampied, Gruchy, Le Ruez, Herbert,  
Rumfitt, Potter, de Veulle, Jones, and Quérée.

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The Attorney General

- v -

Christian Henry Buesnel

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- 1 count of possession of a controlled drug, (MDMA) contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978 (count 2);
- 1 count of obstructing police officers in the execution of their duty, contrary to Article 17(5)(a) of the Misuse of Drugs (Jersey) Law, 1978 (count 3); and
- 1 count of possession of utensils for the purpose of committing an offence, contrary to Article 8 of the Misuse of Drugs (Jersey) Law, 1978 (count 4).

*On 19th April, 1996, the accused appeared before the Inferior Number of the Royal Court and pleaded guilty to the above three counts and not guilty to one count of possession of a controlled drug (MDMA) with intent to supply it to another, contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978, (count 1) and was remanded for trial before the Inferior Number, on police correctionnelle, on 18th June, 1996, on count 1 and thereafter for sentencing on counts 2-4.*

*On 18th June, 1996, the accused was tried and acquitted on count 1 and was remanded to appear before the Inferior Number for sentencing on counts 2-4 on 12th July, 1996.*

*On 12th July, 1996, at the request of the Crown, the Court remanded the accused to appear before the Superior Number on 22nd July, 1996, for a review by the Court of its sentencing policy in cases of mere possession of Class A drugs and thereafter for sentencing.*

Age: 19.

Details of Offences:

Defendant seen to act suspiciously by police. Swallowed what he later admitted to be two ecstasy tablets. Was found in possession of one further ecstasy tablet. Search warrant at his home disclosed traces of cannabis on certain utensils. The offence of obstruction related to the swallowing of the two ecstasy tablets. The charge of possession related to a total of three ecstasy tablets (including the two which were swallowed).

Details of Mitigation:

A troubled personal background which had led to drug use. After arrest defendant had realised his problem. He had voluntarily sought advice from the Drug and Alcohol Service and had not touched drugs since then. He was

now engaged and had put drugs behind him. Even if the Court were to apply the existing policy, this was one of "exceptional circumstances" justifying a non-custodial sentence.

**Previous Convictions:** None.

**Conclusions:**

The Crown invited the Court to review its sentencing policy in relation to cases of mere possession of Class A drugs. On the basis of the existing policy the Crown moved as follows:

Count 2 : 3 months' imprisonment.  
Count 3 : 1 month's imprisonment, consecutive.  
Count 4 : 2 weeks' imprisonment, concurrent.  
TOTAL : 4 months' imprisonment.

**Sentence and Observations of the Court:**

Probation Order one year with a condition of 100 hours Community Service concurrent on each count. Reasons to be given later.

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The Attorney General.

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#### JUDGMENT

5 THE BAILIFF: The Attorney General has invited the Court to reconsider its policy in relation to the sentencing of those in possession of Class A drugs, having regard to the policy of the Court laid down in the case of A.G. -v- Young (1980) JJ 281. We have done so and shall give our reasons in due course. I shall now announce our decision in this case.

10 I shall say no more at this stage than that the Court has taken into account all the circumstances of the case and in particular the determination, which we are persuaded you have shown, in trying to bring about a reformation of your own character and an avoidance of any dealings with drugs. We think that the justice of the case is best dealt with by the imposition of a non-custodial sentence and we are going to place you on 15 probation for 1 year on each of the counts for which you now appear for sentence, subject to the usual conditions that you are of good behaviour during that time, and that you live and work as directed by your Probation Officer, and subject to the further condition that you carry out 100 hours of Community Service to the 20 satisfaction of the Community Service Organiser. You must understand, as I am sure you do, that if you are in breach of any of those conditions or you misbehave yourself during the time of

your Probation Order then you will be liable to be brought back before this Court and sentenced again for these offences.

Authorities

A.G. -v- Young (1980) JJ 281.

A.G. -v- Bull (26th April 1991) Jersey Unreported.

A.G. -v- Hickson (7th June, 1991) Jersey Unreported.

A.G. -v- Pinto (24th May, 1996) Jersey Unreported.

A.G. -v- McDonough (24th May, 1996) Jersey Unreported.

A.G. -v- de la Haye, Kearney (15th December, 1995) Jersey Unreported.

R. -v- Aramah (1982) 4 Cr. App. R. (S) 407.

R. -v- Diamond (1985) 10 Cr. App. R. (S) 152.

R -v- Layton (1988) 10 Cr. App. R. (S) 109.

R. -v- Cox (1994) 15 Cr. App. R. (S) 216.

Home Office Statistics of Drug Seizures and Offenders dealt with in the U.K. 1993.

Guidance to Magistrate's Association of England on Sentencing for possession of Class A Drugs.

"Working together against Drugs", a strategy and implementation plan (President's Policy Group on the Misuse of Drugs).

A.G. -v- Kramer (16th March, 1992) Jersey Unreported.