

ROYAL COURT222.  
25th November, 1996

Before: F.C. Hamon, Esq., Deputy Bailiff, and  
Jurats Blampied, Myles, Gruchy, Le Ruez,  
Vibert, Rumfitt, Potter, de Veulle, Querée

The Attorney General

- v -

Michael Joseph Pitchley

Sentencing by the Superior Number of the Royal Court, to which the accused was remanded by the Inferior Number, on 25th October, 1996, following a guilty plea to:

1 count of being knowingly concerned in the fraudulent evasion of the prohibition on the importation of a controlled drug, contrary to Article 77(b) of the Customs & Excise (General Provisions) (Jersey) Law, 1972:

Count 1 : Diamorphine

Age: 26.

Details of Offences: Defendant imported a total of nine packages, seven internally, containing a total of 80.27 grams of heroin with a street value of between £12,843.20 and £24,081. This was sufficient to provide up to 2,400 individual doses. Initial protestations of denial.

Details of Mitigation: Guilty plea, but inevitable. Not total co-operation. Admitted heroin addict. Claimed to have incurred a debt to supplier and alleged to have been assaulted and threatened with more violence if he did not agree to bring the drugs into the Island. Threats to both his safety and that of his family claimed. His role had been one of a "mere courier". A depressingly familiar story.

Previous Convictions: A bad record stretching back to 1988. None of the convictions was a drug offence but the majority were drug related acquisitive crimes.

Conclusions: 12 year starting point reduced to 9 years to take account of such mitigating circumstances as there were.

Sentence and Observations of the Court: Conclusions granted. Very little by way of mitigation. Guilty plea of little effect. The Defendant could have been more co-operative. Nonetheless Crown was correct in allowing some credit, though Defendant was not entitled to a full one-third discount. 12 years the appropriate starting point.

A.J. Olsen, Esq., Crown Advocate.  
Advocate J.C. Gollop for the accused.

JUDGMENT

THE DEPUTY BAILIFF: At 5.45 on Monday, 22nd July, 1996, Pitchley was stopped at the Airport, having arrived from Gatwick. He gave a false name but his correct address. He had on him a single ticket purchased that morning and said he had come to Jersey to visit a friend called "Ben". He knew neither the surname nor the address of Ben, but said that he would telephone his number which he had memorised when he got into St. Helier. He said that he had met Ben on a previous visit to Jersey.

His only visible means of support was £20 in cash. He was searched and later when asked for a sample of his urine, he admitted that he was a heroin addict. Later the next day, two small packages of heroin were found hidden in the interview room that he had been in and when he used the drugs lavatory, he eventually passed four packages of heroin.

When questioned by customs officers he made two statements. He said "I was going to deliver it to someone. I was forced to deliver them. I had problems at home". And "I was to go to a row of phone boxes in the centre of town near M & S and someone I don't know who would recognise me would come up to me".

Later, in a further bowel movement, he produced three more packages. He told the officers that he owed some £400 to £500 in drug debts in the UK. His family had been threatened and he was told that if he imported the drugs into Jersey these debts (or so he naively believed) would be considered settled.

When examined more closely by the most effective Jersey Drug Trafficking Investigation Unit they concluded that given his admitted heroin addiction over the past three or four years costing some £150 per week he would have needed a concealed income of £23,400 to feed his habit and it may indeed have been much higher than that. However, he has no traceable hidden assets and no apparent means to support his addiction.

The combined weight of the heroin seized is 80.27 grams of varying purity and the street value is assessed at between £12,843.20 and £24,081.00. There is the potential of providing up to 2,400 individual doses. The consequences for Jersey, had his mission succeeded, do not really bear thinking about.

We recall that the Court of Appeal said in Campbell, Molloy, MacKenzie -v- A.G. (1995) JLR 136:

"Once those guidelines have been set, however, we consider that the system of judicial hierarchy requires that proper regard should be paid to them by the Royal Court in imposing sentence".

Mr. Gollop could not have said more than he has said, but comparing case with case does not really help us because each case turns on its own particular mitigating factors. In this case there appears to us to be very little that can be said by way of mitigation. He may well have been threatened but his plea of guilty is of little effect in the particular circumstances of the case. We feel that he could have been more co-operative. We can see no reason - following the dictates of Fogg - why twelve years is not a proper starting point and without a doubt Pitchley is not entitled to a full one-third deduction for his guilty plea. Mr. Olsen says that he recommends three years off the sentence with some misgivings. We share those misgivings but we will follow his conclusions.

Pitchley, stand up, please. You are sentenced to nine years' imprisonment and we order the forfeiture and destruction of the drugs.

Authorities

Campbell, Molloy, MacKenzie -v- A.G. (1995) JLR 136. CofA.

A.G. -v- Perchard, McConnachie (22nd November, 1995) Jersey Unreported.

Raffray -v- A.G. (17th January, 1996) Jersey Unreported CofA.

A.G. -v- Marella & Ors. (2nd May, 1996) Jersey Unreported.

A.G. -v- Jones, Rayner (6th June, 1996) Jersey Unreported.

A.G. -v- Cain (9th September, 1996) Jersey Unreported.