

ROYAL COURT
(Samedi Division)

228.

2nd December, 1996

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

The Attorney General

- v -

Darren Bryan Le Tarouilly

Sentencing by the Superior Number of the Royal Court, to which the accused was remanded by the Inferior Number on 15th November, 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 and Excise (General Provisions) (Jersey) Law, 1972:
Count 1 : Diamorphine.

Age: 28.

Details of Offence: Search of the person revealed two bags of heroin strapped to each groin: Defendant later passed eleven packages containing heroin: total weight 471.28 grams. Defendant not heroin addict himself but had alcohol problem. Importation had a street value of £141,384 if sold in "score bags" at £300 per gram. Defendant attempted to escape from custody but did not assault Customs Officers. Mere courier. Did not name supplier.

Details of Mitigation: Guilty plea. Eventually co-operative. Deeply ashamed and remorseful. Had made the run to extinguish debt of £1,000 and offer of further £500. Unemployed as a result of drink problem. In fear of supplier who knew where his mother lived and had made threats.

Previous Convictions: Several drink related and one previous for simple possession of cannabis in 1989 for which he was fined £150.

Conclusions: 12 years' imprisonment; starting point: 14 years; 2 years' discount available for mitigation.

Sentence and Observations of the Court: Conclusions granted; forfeiture and destruction of drugs; no Confiscation Order sought

Mrs. S. Sharpe, Crown Advocate.
Advocate J.C. Gollop for the accused.

JUDGMENT

5 THE DEPUTY BAILIFF: On Monday, 9th September, 1996, Le Tarouilly was stopped by a Customs Officer at the Airport. He said that he had been to a christening at Southport but could remember neither the address nor the friend he had stayed with, nor the name of the church in which the christening took place.

10 Whilst detained and exercising his right of appeal to a Jurat before being searched he attempted to escape but was detained and cautioned. We accept that attempt as a matter of panic.

Two packages were discovered taped to his groin. After further caution, this dialogue took place:

15 Question: "What is it?".

Reply: "The nasty stuff".

Question: "Heroin?".

Reply: "Yeah".

20 Those two packages had a total weight of 416.91 grams and a purity by weight of 45.8 and 46.4 per cent. Le Tarouilly later admitted that he had swallowed further packages and the next day, in a bowel movement, he passed eleven oval packages found to contain heroin with a total weight of 54.37 grams and an average
25 purity of 42 per cent. The total weight of the heroin is 471.28 grams which, if sold in score bags as it normally is, would have a street value of £141,384. The terrifying aspect of those statistics is that there was probably sufficient for 14,136 individual doses.

30 Yet again we have an accused caught in a trap. He was acting as a courier for a man in Manchester, whom he will not name for fear of reprisals. He said that he thought initially that he would be carrying cannabis. But he was told that if he carried this heroin his debt would be cancelled - it was not, apparently,
35 a drugs debt - and he would make a further £500. He managed to swallow only part of the consignment, which was not surprising as this poison is wrapped in condoms and then clingfilm, presumably to stop it bursting inside the body, which would effectively not only destroy the carrier but frustrate the purpose of the
40 exercise.

He states that had he arrived safely in Jersey he was to telephone his supplier, who would come over from Manchester to take possession of the drugs. He has, of course, not named his

supplier - that is his choice; but had he done so there is no doubt that we would have given him a very substantial discount.

5 Le Tarouilly is 28 years old, he has previous convictions, but only one related to drugs and that was some time ago. We are, in any event, back to Campbell, Molloy, MacKenzie -v- A.G. (4th April, 1995) Jersey Unreported CofA; (1995) JLR 136 CofA, and, sadly, the question of condign punishment. This is the largest ever importation of heroin into Jersey. It may be useful if we were just to read a passage from the Campbell judgment at p.6
10 where the Court of Appeal said this when considering sentences:

15 *"The evidence also showed the emergence of a new dimension in the form of heroin abuse. In 1991 very little heroin was imported into Jersey. Indeed until the end of 1992 only two or three heroin users were receiving counselling at the Drug and Alcohol Abuse Unit of the General Hospital. During 1993 and 1994 the number of referrals to that unit rose dramatically; fifteen were referred in 1993 and another sixty-nine were referred in 1994. The Attorney General submitted that those who had reached the stage of wanting counselling were likely to be the tip of the iceberg. The estimate of the Director of the Drug and Alcohol Abuse Unit was that by the end of 1994 there were over four hundred regular heroin users in the Island. The affidavit of Superintendent Jones showed that in the first six weeks of 1995 twice as much heroin had been seized as during the whole of 1994. The Attorney General also drew our attention to the fact that an increasing number of offenders incarcerated at La Moye Prison were drug offenders. Even making due allowance for the potential of statistics to mislead, these indicators point inexorably, in our judgment, to the conclusion that there has been a considerable increase in the level of drug abuse in Jersey since 1991. The Attorney General submitted that this increase, particularly in relation to heroin abuse, created the risk of mounting acquisitive crime. He referred us to a consultation document entitled "Tackling Drugs Together" published recently by Her Majesty's Government. This document estimated the extent of acquisitive crime in England which was attributable to the abuse of heroin. There is, as yet, no firm evidence that heroin abuse is generating such crime in Jersey, but we accept that it has the potential to do so. The Attorney General invited us to consider how such acquisitive crime, particularly burglaries and muggings, might adversely affect the quality of life in the Island".*

20 That judgment, of course, was delivered in 1995.

50 The appropriate starting point for this particular crime is fourteen years. A guilty plea in the circumstances cannot, in our

view, warrant the full one-third discount. Le Tarouilly is 28 years old; he pleaded guilty, although as we have said it might have been difficult to do anything else in the circumstances. He explained his own involvement in the crime.

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Mr. Gollop, who has said everything that could possibly be said on his behalf, has described him as "a simple courier". His record has only one drug involvement offence and the references which we have received and read when we retired are very good and we are told that he is deeply ashamed and embarrassed. Mr. Gollop agrees that the starting point of fourteen years is totally appropriate and asks that we reduce the sentence perhaps by one or two years in the circumstances of this particular case. But we have to think of the misery that might have been caused in this Island had this massive importation successfully been carried through and in the circumstances, with some regret because of the personality involved, stand up, please, Le Tarouilly, we have to sentence you to twelve years' imprisonment and we order the forfeiture and destruction of the drugs.

Authorities

Campbell, Molloy, MacKenzie -v- A.G. (4th April, 1995) Jersey
Unreported CofA; (1995) JLR 136 CofA.

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

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