

ROYAL COURT
(Samedi Division) 25.

10th February, 1997

Before: Sir Philip Bailhache, Bailiff, and
Jurats Bonn, Gruchy, Le Ruez, Vibert,
Rumfitt, Potter and de Veulle.

The Attorney General

- v -

Derrick Connolly,
Lynda Alice Hines,
Stephen John Taylor.

Sentencing by the Superior Number of the Royal Court to which the accused were remanded on 17th January, 1997, by the Inferior Number following guilty pleas to the following counts:

DERRICK CONNOLLY

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

1 count of supplying a controlled drug, contrary to Article 5(b) of the Misuse of Drugs (Jersey) Law, 1978:
Count 2 : diamorphine.

Age: 53.

Details of Offence:

Importation and being concerned in the supply of diamorphine. Imported 57.96 grams of heroin for supply to co-accused, Taylor.

Details of Mitigation:

Pleaded guilty on eve of trial but only after co-accused, Hines, offered to give evidence against him.

Previous Convictions:

20 previous convictions comprising of theft, burglary, robbery, assault, stealing and a dishonest abstraction of electricity but no previous drug related offences.

Conclusions:

Starting point 11 years. Reduction of 1 year for plea of guilty.

Count 1 : 10 years' imprisonment.

Count 2 : 10 years' imprisonment, concurrent.

Sentence and Observations of the Court:

Starting point 12 years as Connolly was at the heart of this miserable trade. 1 year reduction for guilty plea thus sentence of 11 years. Involvement equivalent to Fogg.

Count 1 : 11 years' imprisonment.

Count 2 : 11 years' imprisonment, concurrent.

LYNDA ALICE HINES

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

1 count of being concerned in the supply of a controlled drug, contrary to Article 5(c) of the Misuse of Drugs (Jersey) Law, 1978:
Count 3 : diamorphine.

2 counts of being in possession of a controlled drug, contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978:
Count 4 : cannabis resin.
Count 5 : herbal cannabis.

Age: 30.

Details of Offence:

Importation and being concerned in the supply of heroin. Arranged flights and accommodation for co-accused Connolly who imported 57.96 grams of heroin for supply to co-accused, Taylor. Importation planned by mother who is heavily involved in the drugs trade.

Details of Mitigation:

Acting under duress. Pleaded guilty. Was prepared to give evidence against co-accused, Connolly. Her change of plea and willingness to give evidence caused Connolly to change his plea. Child aged 3 - single parent. Her involvement was peripheral.

Previous Convictions: Dishonesty x 2. Assault x 2. 1980. None for drugs.

Conclusions:

Starting point 7 years. Reduction of 3 years for ordinary mitigation and further 2½ years for co-operation.

Count 1 : 18 months' imprisonment.

Count 3 : 18 months' imprisonment, concurrent.

Count 4 : 1 month's imprisonment, concurrent.

Count 5 : 1 month's imprisonment, concurrent.

Sentence and Observations of the Court:

Conclusions granted.

The Crown's approach "most lenient as possible".

STEPHEN JOHN TAYLOR

1 count of being in possession of a controlled drug with intent to supply it to another, contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978:
Count 6 : diamorphine.

[1 count of being in possession of a controlled drug (diamorphine), contrary to Article 6(1) of the Misuse of Drugs (Jersey) Law, 1978 (count 7), was withdrawn by the Crown].

Age: 27.

Details of Offence:

Local contact/recipient of 57.96 grams of heroin imported into Jersey by co-accused Connolly acting under duress and alleged threats to his family. Pled guilty from the outset but caught in flagrante.

Details of Mitigation:

Involvement not motivated by commercial gain. Remorse shown in a letter handed to the Court.

Previous Convictions:

5 convictions from 1983-1987 comprising breaking and entering, larceny, taking away motor vehicle without consent. One conviction in April 1996 for possession of cannabis and utensils. Gap in offences.

Conclusions:

11 years starting point. Reduction of 2 years for plea of guilty.
Count 6 : 9 years' imprisonment.

Sentence and Observations of the Court:

Crown's conclusions granted Small degree of difference in relation to co-accused, Connolly.
Conclusions granted.

J.A. Clyde-Smith, Esq., Crown Advocate.
Advocate D.M.C. Sowden for D. Connolly.
Advocate J.C. Gollop for L.A. Hines.
Advocate R.G. Morris for S.J. Taylor.

JUDGMENT

THE BAILIFF: The Court has referred to the guideline case of Campbell, Molloy & MacKenzie -v- AG (1995) JLR 136 CofA, where the Court of Appeal laid down the appropriate procedure to be followed by this Court in sentencing in cases of drugs trafficking. What the Court said in Campbell was:

5 *"The proper approach is that the sentencing court should adopt a starting point which is appropriate to the gravity of the offence. Having established the starting point, the Court should consider whether there are any mitigating factors and should then make an appropriate allowance for any such mitigating factors before arriving at its sentence.*

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15 *Much will depend upon the amount and value of the drugs involved, the nature and scale of the activity and, of course, any other factors showing the degree to which the defendant was concerned in drug trafficking".*

20 Connolly obtained the heroin, in this case, from Amsterdam and brought it to the Island. It was a substantial quantity of 58 grams worth about £17,000 on the streets. Connolly was at the heart of a vicious and evil trade, pedalling misery and degradation.

25 We have examined your involvement, Connolly, against the involvement of Fogg as referred to in the Campbell case and we can find no material difference. It is true that Fogg had a previous conviction for a drugs offence, but, on the other hand, you have a very bad record and you were, in relation to this quantity of heroin, the source of supply. The Crown Advocate referred to the cases of AG -v- Raffray (20th July, 1995) Jersey Unreported and AG -v- Cain (9th September, 1996) Jersey Unreported, but these comparisons were, it seemed to us, of little assistance. It is the Campbell case which lays down the guidelines and we consider the appropriate starting point in your case is one of twelve years' imprisonment.

35 There is little to be said in mitigation, as candidly conceded by your counsel, apart from your eventual plea of guilty. We propose to allow (as the Crown Advocate did) a deduction of one year in respect of that mitigating factor. Therefore, on count 1, you are accordingly sentenced to 11 years' imprisonment; on count 40 2, you are sentenced to 11 years' imprisonment, concurrent, making a total of 11 years' imprisonment.

45 Taylor was the recipient in Jersey of this commercial quantity of heroin and was - as the Crown Advocate said - caught in *flagrante delicto*. In our judgment there is, however, a small degree of difference in the involvement of Taylor and Connolly. We accordingly take, as suggested by the Crown Advocate, a starting point of 11 years in the case of Taylor.

50 Taylor, we have carefully read your letter and we accept that the punishment which the Court is bound to impose upon you is going to affect your family; that is one of the sad consequences

of the evil of drug trafficking. We think that the Crown Advocate has made the appropriate deductions for your guilty plea and your co-operation with the police and you are accordingly sentenced, on count 6, to nine years' imprisonment. Mr. Clyde-Smith, in relation to count 7, the Court thinks that it might be appropriate if you were to leave this matter on file so that the impression is not given on Taylor's record that he has been involved in two incidents of trafficking of heroin. *[The Crown Advocate indicated that that count would be withdrawn]*. Therefore, that matter is withdrawn and the Court will impose no sentence on count 7.

Hines, we have given anxious consideration to your case and to the recommendation in the Probation Report. At the end of the day, however, you were party to the trafficking of a substantial quantity of heroin. You may not have known what drug it was, although, frankly, we think that unlikely, but, in any event, you facilitated the importation and the transfer of money from Taylor to your mother.

The Crown Advocate has taken the most lenient approach which it is possible to take and his conclusions are accordingly granted. On count 1, you are sentenced to 18 months' imprisonment; on count 3, you are sentenced to 18 months' imprisonment, concurrent; count 4, you are sentenced to 1 month's imprisonment, concurrent; on count 5, you are sentenced to 1 month's imprisonment, concurrent, making a total of 18 months' imprisonment. We order the forfeiture and destruction of the drugs.

Authorities

Campbell, Molloy, MacKenzie -v- AG (1995) JLR 136 CofA.
AG -v- Chadwick (30th October, 1995) Jersey Unreported.
AG -v- Marello & Ors. (2nd May, 1996) Jersey Unreported.
AG -v- Akehurst (29th July, 1996) Jersey Unreported.
AG -v- Raffray (20th July, 1995) Jersey Unreported.
AG -v- Cain (9th September, 1996) Jersey Unreported.