

ROYAL COURT
(Samedi Division)

36.

21st February, 1997

Before: F.C. Hamon, Esq., Deputy Bailiff, and
Jurats Herbert and Rumfitt

The Attorney General

- v -

Geoffrey Albert Lavis

Application for a review on the Magistrate's decision to refuse bail.

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| On 9th December, 1996, | the applicant reserved his plea to 1 count of being knowingly concerned in the fraudulent evasion of the prohibition on the importation of a controlled drug (cannabis resin), contrary to Article 77(b) of the Customs and Excise (General Provisions) (Jersey) Law, 1972, and was remanded in custody, without bail option; |
| On 6th January, 1997, | the applicant entered a plea of not guilty, and was remanded in custody. Bail was refused. |
| On 10th January, 1997, | a bail application was refused, and the applicant was remanded in custody. |
| On 4th February, 1997, | the applicant was remanded in custody, pending trial before the Royal Court. An application for bail was adjourned to 5th February, 1997. |
| On 5th February, 1997, | the application for bail was refused, and the applicant was remanded in custody. |
| Application refused. | |

P. Matthews, Esq., Crown Advocate.
Advocate H. Tibbo for the applicant.

JUDGMENT

5 THE DEPUTY BAILIFF: This is an application for bail. It is the first in this Court, but the fourth in sequence. Three previous applications having been refused at the Magistrate's Court. The last occasion when bail was refused was on 5th February, 1997. It is essentially that refusal which comes to be examined in this Court.

10 The Magistrate analysed the facts. When strip-searched by Customs at the Airport Lavis was found to have over a kilo and a half of cannabis resin taped to his back. This had a street value of some £8,500. The Magistrate said that if the allegation were proven it would amount to wholesale drug trafficking of Grade A drug on a commercial basis. With that we agree.

15 Lavis had told Customs Officers that a wealthy Londoner of his acquaintance whom he knew only as "Jimmy" had suggested that he take a package to Jersey. He immediately asked how much he would be paid for the run and was told £500 less expenses. He did not hesitate; the package was assembled, attached to him with 'sellotape' in this man, Jimmy's, car - in which there were 20 apparently some other people - at about three o'clock in the afternoon and by that evening Lavis was in Jersey having purchased his own air ticket.

25 The learned Magistrate analysed the facts fairly; he even listened to a recording of the application that had been made before Judge Trott. On the next bail application before him he studied the transcripts. He looked at the likely sentence that a conviction would carry and he examined the papers on the physical 30 condition of the applicant. He had before him a letter from Dr. Wolfman, the applicant's G.P. in Golders Green. On that matter the Magistrate said this - and I read from the judgment that he delivered:

35 *"Two distinct categories of medical evidence were placed before me. In the first category, are helpful letters from Dr. Wolfman, whose patient the defendant was whilst he was in England. I attach greater importance to the 40 second category, namely the letters from the prison doctor in Jersey, under whose care (and we emphasise that word for the purposes of this judgment) the defendant has been since his detention in custody here on 7th December. Dr. Earley's most recent letter is dated 10th January, and my conclusion is that, on the evidence placed before me, the 45 management in prison of the defendant's illness is not seriously impaired, but is on the contrary well controlled by the treatment that he is receiving".*

50 The Magistrate clearly considered three matters most carefully. These can be set out in this way:

1. Lavis was involved in an incident at the prison on 27th January, 1997, whereby a prisoner grabbed him by the throat and it required a fellow prisoner and a prison officer to prevent the incident from going any further.
2. It was alleged that his health was worsening as he had been on oxygen for three weeks and was having panic attacks.
3. It was alleged that he was at risk of losing his home in the United Kingdom.

We need to refer, very briefly, to the case of A.G. -v- Skinner (24th June, 1994) Jersey Unreported which says this:

"Before this Court can interfere with a refusal by the Magistrate to grant bail, we have to be satisfied that either the Magistrate positively misdirected himself, or the proceedings were irregular, or that he gave a decision which no reasonable Magistrate could properly have given".

We have to ask ourselves why a man, who, without being threatened, agrees in a pub in Golders Green to take something which is clearly illegal for £500 to Jersey, does not have second thoughts. Be that as it may we have listened very carefully to the forceful address and argument of Miss Tibbo but even without looking at the case of Makarios (1978) JJ 215 we regard this application as hopeless and the bail application is therefore refused.

Authorities

Maxwell's Current Sentencing Practice: R.32: May, 1996: pp. 30503-4.

Green (1992) 13 Cr.App.R.(S) 613.

A.G. -v- Skinner (24th June, 1994) Jersey Unreported.

A.G. -v- Hammond (24th December, 1996) Jersey Unreported.

A.G. -v- Makarios (1978) JJ 215.