

ROYAL COURT  
(Samedi Division) 69.

11th April 1997

Before: F.C. Hamon Esq, Deputy Bailiff and  
Jurats Gruchy and Le Brocq.

The Attorney General

-v-

Mireille Nicolette Coutanche

1 Count of possession of a controlled drug, contrary to Article 6 (1) of Misuse of Drugs (Jersey) Law, 1978:  
Count 1: diamorphine (heroin).

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

Plea: Guilty.

Age: 27

Details of Offence:

The accused's home was searched under a drugs warrant and various pieces of drugs paraphernalia were found, which upon analysis showed traces of heroin. At her interview whilst initially denying the items belonged to her she later admitted to selling heroin to cover her addiction. The Q & A was not clear exact period or amount but defence counsel accepted value of heroin £620 being 20 score bags at £30 each, a total of 2 grams of heroin over a two months period

Details of Mitigation:

Accused mother of two year old boy. Heroin addict. Sold drugs to cover own addiction. Expert evidence given by Consultant Psychiatrist regarding heroin addiction: recommending non custodial in order to continue treatment.

Previous Convictions

One unrelated

Conclusions

Count 1: 3½ years' imprisonment

Count 2: 3½ years' imprisonment concurrent

Starting point 7 years (Attorney General -v- Campbell and others) allowing discount for guilty plea, accused virtually wrote her own indictment; effectively first offender; extreme remorse and presently undergoing treatment for addiction.

Sentence and Observation of the Court

Count 1: 1 year's imprisonment

Count 2: 1 year's imprisonment concurren

Sentence and Observation of the Court

The Court observed that it was bound by Campbell and the policy of the Court being condign punishment for trafficking in Class A drugs which was a heinous and anti-social crime. Concurred correct starting point 7 years. Observed did not name supplier or those supplied. Although small amounts and no personal financial gain, harrowing case but custody inevitable.

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Mrs S Sharpe, Crown Advocate  
Advocate S.E. Fitz, for the accused.

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JUDGMENT

THE DEPUTY BAILIFF: During a search of the accused's home on the 16th April last year an amount of drug paraphenalia was discovered; this included pieces of tin foil strips, three spoons, a mirror and a paperwrap. More significantly there was an apparent deal list. The accused, a heroin addict had, it appeared been dealing over a couple of months to five unnamed persons who owed her in total £620; that sum represents 20 score bags of £30 each or some 2 grams of heroin. We have to refer to Campbell, MacKenzie and Molloy (1995) JLR 136 C of A. In that case, the Appeal Court said - and it is a judgement which binds this Court:

*"We desire therefore to make absolutely clear what is the policy of the courts in this jurisdiction in relation to the sentencing of offenders who import or deal in drugs on a commercial basis. That policy is that offenders will receive condign punishment to mark the peculiarly heinous and antisocial nature of the crime of drug trafficking."*

Again according to the Court of Appeal guide lines, the level of dealing in this case merits a starting point of seven years imprisonment and at page 145 of the Court of Appeal judgment we this:

*"we accordingly state that it is seldom that the starting point for any offence of trafficking in a Class A drug on a commercial basis can be less than a term of seven years"*.

We have to note in passing that Miss Coutanche has neither named her supplier nor has she named those whom she supplied. Miss Fitz at first referred those who introduced her to heroin as friends. She corrected herself, but we will add to that by saying that these were not friends. She is too frightened to name the supplier whose only interest in this young girl was to continue to find new sources of supply in this truly filthy trade.

5 We have received from Miss Fitz this morning a most moving plea for mercy; we have also heard from Dr Bremner, a highly respected Consultant Psychiatrist from whom Miss Coutanche received a most rigorous and intensive rehabilitation assessment which has led to what Dr Bremner describes as a successful rehabilitation. The amounts supplied were small, and they were clearly not for personal financial gain.

10 This has been for all concerned in this case, I am sure, a truly harrowing experience, a small amount of drugs; a young child whose father is already in custody; a question of loss of self esteem; the support of family; a first offender.

15 She is in Dr Bremner's words an addict in recovery, but our problem is this; it is not thought - particularly in the light of the case of AG -v- Walker (4th April 1997) Jersey Unreported, heard only last week and which again was harrowing - that we can depart from the guidelines of the Court of Appeal by imposing a non-custodial sentence. We have given very anxious consideration to this case. We can only reflect an element of mercy in extending even further the already considerable concessions of the Crown and therefore we are going to reduce the sentence to a sentence of 12 month's imprisonment concurrent on each count. Any variation of sentence, in our view, is not for this Court, Miss Fitz, but for the Court of Appeal.

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Authorities

Campbell, Molloy, Mackenzie -v- A.G. (1995) JLR 136 C of A

A.G.-v- Russell-Biggie, Phelan, (31st August 1996) Jersey  
Unreported

A.G.-v- Buesnel (21st August 1996) Jersey Unreported

A.G.-v- de Freitas (18th October 1996) Jersey Unreported

A.G.-v- Walker (04th April 1997) Jersey Unreported.