

ROYAL COURT
(Samedi Division)

91

16th May, 1997

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

The Attorney General

- v -

Geoffrey Albert Lavis

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 : cannabis resin.

[On 18th April, 1997, the accused pleaded not guilty to 1 count of 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 2 : cannabis resin) which plea was accepted by the Crown]

Plea: Guilty.

Age: 53.

Details of Offence:

1.505 kg. of cannabis in blocks strapped to small of back, discovered on arrival at Jersey Airport by Customs.

Details of Mitigation:

English resident, on State benefits, chronic heart condition, serious health problems, in debt and in danger of losing council accommodation if in prison too long.

Previous Convictions:

None for drugs, none since 1972, prior to 1972 some minor dishonesty.

Conclusions: 2 years' imprisonment.

Sentence and Observations of the Court:

1 year and 2 months' imprisonment. Exceptional, due principally to health problems.

N.M.C. Santos Costa, Esq., Crown Advocate.
Advocate P.S. Landick for the accused.

JUDGMENT

THE DEPUTY BAILIFF: Let us start by saying that Mr. Landick has said everything that can possibly be said on behalf of his client. There is a continued flow of drugs into this Island and consequently a continued use of illegal drugs. If there were no
5 couriers the problem might be more easily contained. We have, again, a courier before us who claims that he was 'duped'. What does that mean? It means that for commercial gain Lavis allowed a package to be strapped to his back having - in the scenario described to us - met a wealthy Jew called Jimmy in a coffee shop
10 in Golders Green at 3 p.m. He owed this man some money. The sticky tape and packaging was attached to his spine in this man's (Jimmy's) car. There were two or three other people present.

He initially thought in some fanciful way that it was money to purchase a car; although why anyone should be concerned about
15 transporting money from one part of the British Isles to another is beyond this Court's understanding.

However, by that evening he was in Jersey, having purchased his own air ticket. Mr. Landick told us that by the time he was
20 on his way he realised that he was not carrying money, that he must be carrying drugs and that, to our minds, is not surprising because in Court today we have felt the weight and seen the bulk of the cannabis in those packages.

Finding himself confronted in Jersey by a very efficient team of Customs Officers the story that he told was interesting only to
25 compare with so many other similar stories we have heard in this Court. He was to wait in the 'Post Horn' public house until closing time at which point he would meet someone who would relieve him of the drugs.
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He told his Probation Officer that he was surprised to encounter Customs Officers on his arrival in Jersey. That is
35 surprising to us as he had a ticket in his luggage which showed that he had already been in Jersey a month earlier - between 21st and 24th November - when, apparently, he came to sample the pure air of Sark, but had been thwarted by the weather and had stayed in St. Aubin for that time.
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We have studied the reports of Mr. A.L. Berry the Consultant Psychologist and of Dr. Blackwood, the Consultant Psychiatrist and they do not diagnose any psychiatric problems at all.

Campbell, Molloy and MacKenzie -v- A.G. (4th April, 1995) Jersey Unreported; (1995) JLR 136 CofA, the only case that we need
45 to refer to in this present matter, gives the three bands as set out in tabular form and they are there for the guidance of this Court. The lowest band is an amount of one to ten kilograms of a Class B drug and that merits a starting point of between two to
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six years. The law to that extent is very plain and this is a very clear drug trafficking offence.

5 Lavis was carrying 1.505 kilograms of cannabis and in our view the starting point of three years suggested by the Crown in these circumstances is perhaps a little high and we are going to take a starting point - because of the circumstances of this case - of two years. Whatever may have been said by Mr. Landick the accused is not entitled, in our view, to a full one-third reduction for a guilty plea; he had very little alternative but to plead guilty.

10 Despite the accused's early record we can regard him as a first offender and certainly there is no previous conviction for a drugs offence; he is 53 and stood to gain very little from this venture as we understand it. It is his medical condition which gives us the most concern.

15 If we take our starting point at two years and we take off four months for the guilty plea and perhaps six months for the other matters, which include the problems of ill-health and the difficulties which he is facing in the prison, we think that we can deal with the matter adequately. However, we would say, in our view, that this is an exceptional case and we are only looking at it in the light of the particular circumstances of this case.

20 Stand up, please, Lavis, we are sentencing you to 14 months' imprisonment and we are going to allow the seven months spent in prison to be taken into account. We further order the forfeiture and destruction of the drugs.

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Authorities

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

AG -v- Kelly (16th January, 1995) Jersey Unreported.

AG -v- Rawlinson (23rd November, 1992) Jersey Unreported.

AG -v- Duffy, Lynch, McCaig, Ryan & Santos-Costa (9th August, 1993) Jersey Unreported.

Lynch, Ryan & Santos-Costa -v- AG (11th January, 1994) Jersey Unreported CofA.

A.G. -v- Turner (8th December, 1995) Jersey Unreported.