

Court of Appeal

Appeal by James Reid Fleming against sentence.

Judgment.

D.C. Calcutt, Esq., Q.C. (President): On the 20th December, 1985, the appellant, together with his wife, pleaded guilty to an indictment containing four counts. The first count charged both the appellant and his wife in respect of importation of cannabis, and the offence was alleged to have occurred on the 6th August, 1984. The second count charged the appellant alone with the possession of cannabis, the offence being alleged to have occurred on the 10th October, 1985. The third count charged the appellant alone with supplying cannabis to a man by the name of Bouchard, that being said to have occurred between the 4th and 10th October, and the fourth count related simply to the wife, with which we are not concerned on this appeal. On the 16th January, 1986, the appellant and his wife came before the Royal Court for sentence. The appellant was sentenced to four years' imprisonment on each of the three counts to which he had pleaded guilty, those sentences to run concurrently, so that the effect of that sentence was that he was to serve a term of four years' imprisonment. I just record, for the sake of the record, that in respect of the wife, she was given a conditional discharge. The matter came before the Court on the 21st February, 1986, when the Deputy Bailiff granted leave to appeal to this Court.

The brief facts of the matter are that in August, 1984, the appellant and his wife were returning from the mainland to Jersey. The appellant asked his wife to pack five pounds of cannabis into a suitcase, which she did for him. Thereafter, the appellant sold the drugs in Jersey, though it may be that he did not make very much money out of that particular transaction. In 1985, however, the appellant again obtained a quantity of cannabis, not by importation, I stress it was an obtaining, but the amount involved was some ten pounds. He supplied it to a Mr. Bouchard at an agreed price of something in the order of just over one thousand, three hundred pounds per pound, and he gave an indication that he would be able to supply further cannabis in the forthcoming weeks. It appears that meetings took place from time to time, and that sums of money were in fact paid over.

The police were alerted to this situation and obtained a search warrant, and on the 11th October, searched the relevant premises, which were known as Windsor Court. When the police first came to search those premises, the appellant said to them, "You won't find any drugs in this house". The fact is, nevertheless, that they did, and the appellant subsequently denied any involvement. It was only after the appellant was confronted by his wife, telling him that she had confessed, that he too confessed. He then made a statement in which he admitted not only supplying Mr. Bouchard, but also a man by the name of Dean. He also said that he had visited a site at La Hougue where he had bought cannabis. Now it is right to say, that apart from that initial lack of cooperation by this appellant, he was thereafter cooperative and that matter is accepted by the Attorney General.

The appellant was born in Scotland in April, 1953. Unfortunately this is not the first occasion on which he has been brought before a Court in respect of offences connected with the use of drugs. In 1971, he was before the Glasgow Sheriff Court for the possession of drugs, and he was fined fifty pounds and given a sentence of imprisonment as an alternative. He was before the Wolverhampton Stipendiary Court in 1976, when he was also charged with possessing drugs, and again on that occasion he was fined, being ordered to pay a fine of sixty pounds with a sum of ten pounds for costs. It is right that I should record that the Court recognises that these were possessing drugs, and it is right, no doubt as his counsel says, that the penalties imposed on those occasions reflect, to some extent, the seriousness of those offences: he was using drugs, and it was in respect of that fines were, no doubt, properly imposed.

Now we have read the probation officer's report, and it does appear to us that there is not a great deal that can be said in this appellant's favour, but these points are made upon his behalf, and it is right that I should record that we have taken them into consideration. It is right that he pleaded guilty to this offence; it is right, as I have said, that he was cooperative with the police; it is correct that he has never been to prison before this occasion; there have been also, I should record, two family circumstances which are important to remember, first there is the death of a child, secondly there is laid before us, the effect which these matters have had upon his wife. And we take all of those matters into account. Nevertheless, the fact is that we have found in front of us a situation where there is dealing in drugs, and although it is, maybe, open to some doubt how high up in the ring is this man's place, the fact of the matter is he was involved in passing drugs, and on a commercial basis, to other people. It also appears to us that he must have made some money out of these matters. We have been referred in the course of submissions to a large number of case. We have taken them all into account, but we have reached the conclusion, at the end of the day, that there is no way in which it can be said that this sentence was wrong in principle. We do not propose to interfere with it, accordingly this appeal is dismissed.