

1st August, 1986.

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H.M. Attorney General

-v-

Julia Anne Coutanche

Leonard William John Watkins

Dean Cameron

and Annick Suzanne Le Guen.

DEPUTY BAILIFF: We have given very anxious consideration to everything which has been said by the Attorney General, and by all four Counsels. The Royal Court has said on a number of occasions, including the Superior Number of the Court when it has sat as a Court of Appeal, that in the case of Class B drugs, or soft drugs, for a second or subsequent offence there shall be a custodial sentence unless there are very exceptional circumstances, and in the case of a Class A drug there will be, even for simple possession by a first offender, a custodial sentence, unless there are very exceptional circumstances relating to the offence. Moreover the Court, in upholding that policy takes the view that the sentence must be an immediate one and should not be converted into a Community Service sentence. Therefore, firstly with regard to Coutanche, we find that there must be an immediate custodial sentence, because we cannot find very exceptional circumstances relating to the offence. Like the Attorney General, we are a little sceptical about her admitted major role but that makes it all the more important that the sentence should be a custodial one. Those who accept responsibility, even if they are protecting others, and we find once again an inability to identify the source of supply, must receive deterrent sentences. It is essential that any person who may be tempted to involve him or her self in drugs in Jersey should be in no doubt of the consequences. We too are sad that somebody with the talents of Coutanche should be in this predicament, but her intelligence and ability should have made her all the better able to resist. Moreover, she was the householder, and thus able to control what went on in that house. Nevertheless, we feel able to give a little more weight than the Attorney General has done to the very strong mitigating factors. Therefore, we sentence you, Coutanche, on Count one to 9 months imprisonment, and on Count 2 you will be fined £250, or on default 1 months imprisonment consecutive. In the case of Watkins, we apply the same principle, and we cannot ignore that this is his fourth conviction for drugs. We find Watkins' behaviour to have been strange, he tried to close the door to the Police, and yet when taken to the bathroom, he volunteered to produce the drugs in the premises. But he only produced what was under the coffee table, and said nothing about having told the others present to hide what was under the settee.

At Police Headquarters he refused to say anything. He is not entitled, in our view, to mitigation for cooperation. We cannot ignore the fact that he was a joint householder with Coutanche and could, at least to some extent, have controlled what went on there. After his involvement with heroin he knew full well the risks inherent, even in Class B drugs, and yet persisted. However, we have been impressed by the reference that has been produced and we must be careful to sentence him only for his actual involvement, and not for any hidden responsibility for the offences committed by Coutanche. We therefore reduce the conclusion somewhat, Watkins on Count 3, you are sentenced to 4 months imprisonment.

Turning to Cameron, although he has a bad general record, we think he has outgrown it and he has only one previous, albeit serious, conviction for drugs. We do not think that because it was in another jurisdiction has much significance. However, he was not a householder and we do think that for that reason and moreover because he has one previous conviction for drugs only, we can distinguish between Cameron and Watkins. We are very impressed by his recent work record and although he must go to prison, we hope it will be possible for him to resume his present activities. On Count 4, Cameron, you are sentenced to 3 months imprisonment.

Finally with regard to Le Guen, I must comment on Advocate Dorey's submission about the lack of distinction between Class A and Class B drugs. Whilst it is true that the schedule makes no difference, the fact remains that the maximum sentence is two years, or an unlimited fine, or both, so there is plenty of room for the Court to distinguish the seriousness of one obstruction for another. If Miss Dorey is correct in logic, it would be no worse to obstruct a policeman chasing a murderer than one chasing somebody who had merely breached the peace, and we cannot accept that logic. However, the prosecution has accepted Le Guen's account. She acted out of panic rather than premeditation, and was not certain what the cocaine was. Nevertheless, she wanted to protect both herself and her friends from the police which indicates some guilty knowledge. We cannot ignore two previous convictions for offences involving drugs and for that reason there must be a custodial sentence, and as the Attorney General said, if Le Guen had been successful, a dangerous Class A drug would have been left in the hands of her friends. At the same time we accept that she did nothing ingenious and that her attempt was bound to be unsuccessful even under a most cursory police search. We think that the case of Korner which was quoted to us turns on its particular facts because the prosecution had failed to challenge the explanation given. Nevertheless, in all the circumstances, we feel able to reduce the conclusions once again and Le Guen, you are sentenced to one months imprisonment.

The Court orders the forfeiture and the destruction of the drugs.