

ROYAL COURT (SUPERIOR NUMBER)

11th April, 1988

Before: The Bailiff, assisted by Jurats
the Honourable John Alexander Gore Coutanche,
Maxwell Gordon Lucas,
Peter Gilroy Blampied,
Barabara Holmes, wife of John Graeme Boulton Myles,
Peter Gorton Baker,
Donald Edward Le Boutillier,
Michael Walter Bonn,
John James Morel Orchard,
Geoffrey Hubert Hamon,
Mazel Joan de Gruchy, wife of Leslie Ernest Le Ruez

Her Majesty's Attorney General

- v -

James Lee Warn

Application for leave to appeal against sentence
imposed by the Inferior Number on the 19th
January, 1988, for possession of: cannabis
(1 count), amphetamine sulphate (1 count),
dipipanone (1 count), and for possession
with intent to supply amphetamine
sulphate (1 count)

The Crown Advocate, Advocate C.E. Whelan
Advocate S.C.K. Pallot for the Applicant

JUDGMENT

THE BAILIFF: The first thing I want to say, Mr Pallot, the decision is that of the six Jurats and it is a unanimous decision.

Now, the Court has, on many occasions, laid down the principles it applies and expects the Inferior Number to apply in cases of this sort and although, it's quite true, Mr Pallot, that your client was, as far as drugs are concerned, a first offender, there are a number of matters of course in the actual prosecution in the case which were before the Inferior Number and they were able to hear the evidence and assess the detailed circumstances which of course this Court is not able to do at this stage.

We have decided of course to allow you leave to appeal and therefore we have treated your application as the appeal itself.

The principle, therefore, which the Court has to ask itself is whether there was such a departure from the generally accepted level of sentencing for being in possession of these drugs with intent to supply as would entitle the Court to say that the sentence imposed on your client was manifestly excessive. The Court was unable to find that position. As has been pointed out the drug was of the highest purity, an adulterant was available which indicated to the Court that your client intended to adulterate it and would have made considerably more than the £300, and looking at the number of cases that were before us, particularly the case of Williams, he did receive eighteen months with two previous convictions but of course he pleaded guilty. What he would have got had he pleaded not guilty and gone to trial, whether the eighteen months reflected mitigation, one can only assume that. Having regard to the general principle of the Court sentencing in drug matters we cannot find that the sentence imposed by the learned Inferior Number was manifestly excessive although we might possibly have reduced it had we been sitting ourselves. But that is not the principle an Appeal Court applies and therefore the appeal is dismissed.

Authorities cited to the Court at the hearing:-

English cases:

Francis: (1973) C.L.R. 319.

Powrie: (1973) C.L.R. 708.

Jolley: (1971) 56 Cr. App. R. 217.

Andrews: (1974) 16 May 1974 774/A/74.

Duce: (1974) 02 Dec 1974 2487/C/74.

Bowers: (1976) 12 May 1976 893/B/76.

Greaves: (1974) 23 Jul 1974 1510/B/74.

Lawless: (1981) 3 Cr. App. R. (S) 241.

Shed: (1982) 4 Cr. App. R. (S) 217.

MacDonald: (1983) 5 Cr. App. R. (S) 22.

Hall: (1981) 3 Cr. App. R. (S) 228.

Singer: (1973) 20 Dec 1973 1905/B/73.

McAuley: (1979) 1 Cr. App. R. (S) 71.

Fursey: (1974) 295/B/74.

Sallah: (1977) 20 Oct 1977 2534/C/77.

Jersey Cases (Reported)

Price: (1985-86) JLR Part 2 N.6.

Other Authorities:

Thomas: Principles of Sentencing (2nd Edition):

p.50: The Relevance of the Offender's conduct during the proceedings.

p.189: Amphetamine.

Jersey Cases (Unreported)

Bale (1983)	Grant (1984)	Pelletier (1986)	Patton (1988)
Marchant (1983)	Clark (1985)	Amy (1986)	* D.L. Williams:24/7/86
Vardon (1983)	Dean (1985)	Cohen (1987)	Pope: 11 Dec 1985
Corry (1983)	Pope (1985)	Murphy (1987)	Murphy: 24 Jul 1986
MaGrath (1983)	Macfarlane (1986)	Lucas (1987)	Dean: 8 Nov 1985
O'Brien (1983)	Yates (1986)	Le Neveu (1987)	McConnachie: (1986)
Keogh (1984)	Murphy (1986)	Smith (1987)	

* referred to in the Judgment