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ROYAL COURT

10th April, 1989

Before: Commissioner F.C. Hamon and
Jurats Myles and Orchard

Police Court Appeal : Denis Laurence Patrick O'Neill

Appeal against sentence of imprisonment of
four months imposed by the Police Court.

The appellant had been convicted under
Article 6(1) of the Misuse of Drugs (Jersey)
Law, 1978, for possession of a small amount
of cannabis resin.

Advocate J.A. Clyde-Smith for the Crown
Advocate R.G.S. Fielding for the appellant.

JUDGMENT

COMMISSIONER HAMON: The appellant was arrested on the 16th February, 1989. The police had gone to his home address acting on information given to them and on the suspicion that they might have discovered stolen property. In fact, they discovered a small amount of cannabis. He admitted having smoked four or five 'joints', that is cannabis cigarettes, whilst on his own in his room. The police witnesses described him as co-operative and said that the amount was a very small personal amount.

His record since 1985 showed that he had two previous convictions for possession of cannabis in four years. For these and other offences he had served two years' youth custody, two hundred hours of community service and nineteen months' imprisonment, in total, in England. In Jersey he had served six months' imprisonment in 1988 for breaking and entering.

The Magistrate, Judge Dorey, expressed his feelings in this way, and I will read from the transcript:

"This is your third case of possession of cannabis within four years. Were it not for the fact that you were co-operative I would have to consider sending you up to the Royal Court. It is a very, very severe view on drug offences. A recent report shows that drug offences in Jersey was on the increase and it is the duty of this Court to take strong action to prevent it. You will go to prison for four months. Had you not been co-operative you'd have gone to prison for six months, or else gone up to the Royal Court".

Dealing with one aspect of the appeal, the Court was dealing with an offender over the age of 21 who had previously served a sentence of imprisonment. We cannot see that there was any necessity in these circumstances to have a social enquiry or background report.

Mr. Clyde-Smith, acting for the Attorney General, has said that the sentence was probably very severe. This Court takes a very serious view of drug offences and certainly would like to say that the fact that it appears from the evidence that cannabis can be purchased in public houses for small amounts of money is of very great concern indeed.

However, looking at the cases that were cited to us and some of those cases in fact post-dated the strong comments of the learned Magistrate, it does seem that there is not a complete consistency in what was said and we are therefore, in the circumstances, and in the light of the other cases surrounding this particular case, going to reduce the sentence to one of two months' imprisonment.

Authorities referred to:-

Police -v- Paul Anthony Barker - Police Court 27th February, 1989.
Police -v- Peter Anthony Malone - Police Court 13th March, 1989.
Police -v- Stephen Joseph McFadden et al - Police Court 15th March, 1989.
Police -v- David John Grahame - Police Court 29th March, 1989.
A.G. -v- David Carl Peacock - JJ 10th February, 1989 - as yet unreported.
Police -v- Darren Stuart Lewis - Police Court 26th January, 1989.
A.G. -v- Ronald Martin Da Rosa - JJ 23rd May, 1988 - as yet unreported.
Police -v- Stephen McCabe - Police Court 12th October, 1988.
Police -v- Stephen Elkin - Police Court 25th October, 1988.
Police -v- Stuart Patrick Sinclair - Police Court 16th March, 1989.
A.G. -v- Robert Edward Young (1980) - JJ 281.
A.G. -v- H.M. McInley (1980) - JJ 153.
Court of Appeal - David André McConnachie - JJ 7th January, 1987 - as
yet unreported.

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