

ROYAL COURT  
(Samedi Division)

149.

19th August, 1996

Before: Sir Philip Bailhache, Bailiff,  
and Jurats Le Ruez and Quérée

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(Magistrate's Court Appeal: The Assistant Magistrate)

Zac Christopher Oeillet

- v -

The Attorney General

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Appeal against a sentence of 6 months' imprisonment, passed on 19th June, 1996 in the Magistrate's Court, following a guilty plea to:

1 count of possession of a controlled drug (Heroin), contrary to Article 6(2) of the Misuse of Drugs (Jersey) Law, 1978.

Appeal dismissed.

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Advocate M.P.G. Lewis for the Appellant.  
Advocate P. Matthews on behalf of the  
Attorney General.

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JUDGMENT

**THE BAILIFF:** This is an appeal by Zac Christopher Oeillet against a sentence of six months' imprisonment imposed by the Police Court on 19th June, 1996, for possession of heroin.

5 Mr. Matthews, for the Attorney General, has reminded the Court that the function which it has to fulfil is that of an Appellate Court and that it should not substitute its own opinion for that of the Magistrate. The function of this Court is to

determine whether the sentence imposed by the Magistrate was manifestly excessive.

5 Our attention has also been drawn to the case of A.G. -v- Young (1980) JJ 281 where the Superior Number laid down the policy of this Court in relation to offences of possession of Class A drugs. That policy is that a sentence of imprisonment should usually be imposed unless there are exceptional circumstances. What, then, were the circumstances of this case?  
10 The police obtained a Warrant which they executed and found the appellant in a room with two others. There was evidence of the smoking of heroin. Subsequently the appellant admitted having smoked the drug with another man who, he said, had brought the drug but whom he was not prepared to name. The appellant has a poor record which includes one previous conviction for possession of a Class A drug. He is now said to be addicted to heroin.  
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20 The principal point taken on the appellant's behalf by Mr. Lewis - who, we may say, took every point which could reasonably be taken - was that prior to his arrest the appellant had taken steps to address his addiction to heroin. A letter from Dr. Marks was placed before us from which it appears that the appellant first consulted the doctor on 11th January, 1996, asking for help with his addiction. A recognised régime was  
25 instituted as a result of which the drug Dihydrocodeine was prescribed. The appellant visited the doctor eight times between 11th January, and 13th February. On 14th February he was arrested by the police following the execution of the Warrant to which we have referred.  
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35 Between his arrest on 14th February and his sentence by the Magistrate on 19th June, however, the appellant did not consult Dr. Marks again, nor, it appears, did he take any other steps to seek advice on his addiction. In prison, on the other hand, he is apparently attending the drug counselling course which is available for prisoners.

40 Counsel for the appellant also drew the attention of the Court to the youth of the Appellant - he is aged 22 - and to the fact that he was co-operative with the police within the limits which we have described and has pleaded guilty to the charge.

45 The appellant is certainly entitled to credit for such steps as he has taken to deal with his addiction to heroin and the Court hopes that he will continue to show the resolve which is necessary to combat the dreadful position in which he now finds himself. So far as this offence is concerned, however, we consider that the Magistrate took all the relevant factors into account and that it is impossible to say that the sentence which  
50 he imposed in the exercise of his discretion was manifestly excessive. The appeal is therefore dismissed.

Authorities

- A.G. -v- Young (1980) JJ 281.
- A.G. -v- de la Haye and Kearney (15th December, 1995) Jersey Unreported.
- A.G. -v- Bartlett and Mawdsley (20th March, 1996) Jersey Unreported.
- A.G. -v- Pinto (8th March, 1996) Jersey Unreported.
- A.G. -v- Pinto (24th May, 1996) Jersey Unreported.
- Whelan: "Aspects of Sentencing in the Superior Courts of Jersey" pp.11-20; 44-52.
- Ibid: Noter-up (May 1995 - May 1996) preface: pp.1,2,4,5,8,10,12,15.
- Thomas: "Principles of Sentencing" (2nd Ed'n) pp.8-14; 17-20; 230-232.
- A.G. -v- Evans (7th April, 1995) Jersey Unreported.
- A.G. -v- Melville (20th September, 1995) Jersey Unreported.
- A.G. -v- Perchard and McConnachie (22nd November, 1995) Jersey Unreported.
- A.G. -v- Thomas (8th March, 1996) Jersey Unreported.
- Current Sentencing Practice: Vol. 1: Part B 11/2 pp.22001-2; 23C012-23C03.