

Judgment 61/2005

Christopher James Ashman (aka John Robert Bill) – Royal Court (Criminal file 24/2005) – 8 November, 2005

Importation of Class A drugs (2 counts) and Class B drugs – sentencing remarks.

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 8th day of November, 2005 before Richard John Collas, Esquire, Deputy Bailiff; present:- David Charles Lowe, Derek Martin Le Page, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, Michael Henry De La Mare, Michael John Tanguy, Esquires, Susan Mowbray, Barbara Jean Bartie and David Osmond Le Conte, Esquire, Jurats.

In the action of THE LAW OFFICERS OF THE CROWN against CHRISTOPHER JAMES ASHMAN (aka JOHN ROBERT BILL) to see the said Law Officers present an Indictment containing three counts, a copy of which Indictment was annexed to the summons served upon the said accused and has been delivered to Advocate A. J. Ayres, Counsel for the said accused;

And the said Law Officers claim costs;

[See Note of Sentencing Remarks for details of charges]

The accused Ashman having pleaded on the 16th day of September, 2005 before the Bailiff sitting alone, Guilty to counts 1, 2 and 3 in the Indictment, THE COURT recorded verdicts of Guilty;

THE COURT this day having heard Advocate P. Robey for the Crown and Advocate A. J. Ayres for the accused Ashman thereon and having considered a Social Enquiry Report prepared by Ms. K Le Cheminant, Probation Officer;

- (1) ORDERED the forfeiture and destruction of the Diamorphine, Cocaine and Cannabis Resin, the subjects of the charges; and
- (2) SENTENCED the accused Ashman to undergo imprisonment for the period of nine months on Count 1, three months on Count 2 and two years and three months on Count 3, such sentences to run concurrently and to reckon from the 6th day of July, 2005.

M. A. TOSTEVIN
Her Majesty's Deputy Greffier.

NOTE OF SENTENCING REMARKS

Christopher James ASHMAN (21)

8 November 2005

Importation of Class A and Class B Drugs

Background

1. Christopher James Ashman, you have pleaded guilty to three counts of being knowingly concerned in the fraudulent evasion of the prohibition on importation of controlled drugs. In your possession were:-

1.743 grams of heroin

0.129 grams of cocaine

48.267 grams of cannabis resin which would have made 335 cannabis cigarettes

2. Heroin and cocaine are both Class A drugs. Cannabis resin is a Class B drug.

Circumstances

3. You had travelled to the Island on the Condor Ferry from Weymouth with two friends. You were to stay in the Island for a two day break. When stopped by Customs you initially denied having any drugs in your possession. However, Customs Officers conducted a personal search and found the package containing the drugs concealed between your clenched buttocks.

4. The first two counts carry a maximum sentence of life imprisonment and the third count 21 years imprisonment.

Guidelines

5. As you are now aware, Guernsey is a separate jurisdiction from the United Kingdom. Guernsey deplores the illegal importation of controlled drugs and the Court takes a very strict line with offenders.

6. In the leading case of *Richards*, the Guernsey Court of Appeal referred to the misuse of drugs as being one of the scourges of European society at the present time. In *Richards* the Court of Appeal laid down guidelines for sentencing drug trafficking offences. The Court of Appeal, had the following to say about a claim that drugs are for personal use:

Claims that a drug is for personal use

“As we have identified importation is a drug trafficking offence, whatever the intention of the offender as to the use to which the importation is to be put. There is however a clear division between importations of very small quantities for personal use which are punished in the same way as offences of simple possession, and importations of more than relatively small amounts which still fall within the lower of the bands we have set out. In the case of such importations, the fact that a claim is made that a drug was for personal use will not generally result in a lighter sentence being imposed than where no such claim is possible, because any importation adds to the stock of drugs available in the island. Although these cases must be looked at with care, it cannot generally be right that an addict importer of the drug to which he is addicted can be heard to claim some credit for the likelihood that he will be consuming all or part of it”.

You were at the time a drug addict and claim that the class A drugs you imported were for your personal consumption during the period of your short stay in the Island. Concerning the class A drugs, the Court will sentence you on the basis of simple possession, accepting they were for your own use.

The guidelines state that for a quantity of cannabis resin up to 2 kgs in weight, the starting point is 3 – 6 years. The Court has decided that in this case the starting point is the lowest point in the first band for cannabis, namely 3 years.

Background

7. We are told that you are now 21 years of age. You were born in Surrey and have lived in that part of the United Kingdom throughout your life.

8. Although you are still a young man, you have an appalling list of previous convictions, including drugs related offences and offences of dishonesty.

9. You have served periods of Youth Detention. We are told that you had been released from custody only 12 days before your arrest in Guernsey. Indeed, we are told that you can expect to be transferred to the United Kingdom following your sentence today, in order to have outstanding offences on the mainland dealt with. You have had a serious drug addiction problem which started at the age of 8 when you took cannabis and had grown to the point that you required £100 per day to maintain your heroin habit.

Mitigation – STAND

10. The Court has taken account of all the circumstances of the case and considered carefully all that has been said very ably on your behalf, the contents of the Probation Report and the letter from the manager of Drug Concern.

11. The Court is pleased to hear of the progress you have made whilst in the States of Guernsey prison and hope you will remain drug free when you return to the UK.

12. You have pleaded guilty for which you have been given credit of 25%, as you had little option but to plead guilty.

13. The Court has taken account of your relative youth and would have reduced the sentence by a further three months but in view of the fact you also had class A drugs in your possession, the Court consider that the appropriate length of the total sentence you should serve is 2 years, 3 months.

Sentence

14. The sentence is:

Count 1 concerning the heroin -9 months
Count 2 concerning the cocaine - 3 months
Count 3 concerning the cannabis - 2 years, 3 months

15. All sentences to be served concurrently and to take effect from 6 July 2005.

16. Finally, the Court orders the forfeiture and destruction of the drugs in this matter.