

Judgment 62/2005

**Miguel Jonathon Murphy – Royal Court
(Criminal file 30/2005) – 8 November, 2005**

Importation of Class B drug (2 counts) – Drug Trafficking Confiscation Order – 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, O.B.E., Esquires, The Reverend Peter Gerald Lane, 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 MIGUEL JONATHON MURPHY to see the said Law Officers present an Indictment containing two counts, a copy of which Indictment was annexed to the summons served upon the said accused and has been delivered to Advocate C. J. Green, Counsel for the said accused;

And the said Law Officers claim costs;

[See Note of Sentencing Remarks for details of charges]

The accused Murphy having pleaded on the 7th day of October, 2005 before the Deputy Bailiff sitting alone, Guilty to Counts one and two in the Indictment, THE COURT recorded verdicts of Guilty;

THE COURT this day having heard Advocate P. Robey for the Crown and Advocate C.J. Green for accused thereon, and having considered a Social Enquiry Report prepared by Ms. C. Ozanne, Probation Officer;

- (1) SENTENCED the accused to two years Youth Detention on Count one, and two years Youth Detention on Count two, to run concurrently, such sentences to run from the 1st August, 2005;
- (2) FOUND, under Section 11 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000
 - (i) THAT the Accused had benefited from the proceeds of drug trafficking, and
 - (ii) THAT the amount which might be realised in this matter was £800.00;

- (3) MADE a Confiscation Order in the sum of EIGHT HUNDRED POUNDS (£800.00);
and
- (4) ORDERED the forfeiture and destruction of the Cannabis Resin, the subject of the charges, and the associated paraphernalia.

M. A. TOSTEVIN
Her Majesty's Deputy Greffier

NOTE OF SENTENCING REMARKS

Miguel Jonathan MURPHY (20)

TUESDAY 8 NOVEMBER 2005

Drug Trafficking

Background

1. Miguel Jonathan Murphy, you are 20 years of age. At the time of committing these offences you were 19 and your birthday was the day after your arrest. You are a local man and have not married although you have a 1 year old son from a relationship that lasted 2½ years. You have no previous convictions for drug related offences, but you have appeared in Court on several previous occasions and have served a period of Youth Detention totalling 4 months for traffic offences.

Offence

2. You have pleaded guilty to two counts. The first concerns your possession with intent to supply cannabis resin weighing 160 grams. The second concerns your sale of 4 ounces of the same drug to other people. Both counts relate to a single 9 ounce bar of cannabis.

The Circumstances

3. You acquired the 9 ounce bar because you say a friend, who you would not name, asked you to obtain it as a favour for him. He then let you down and you were left with the cannabis which you decided to sell yourself.

4. Your motivation in becoming involved was to earn some money to help you pay off some debts. The cannabis cost £1,500 and you expected to make no more than £100 - £300 profit. The prosecution say that cannabis was selling locally for between £7.00 - £9.00 per gram which would value the 9 ounce bar between £1,750 and £2,250. It may be that not all of the cannabis was to be sold because you were a personal user and intended to use some of this bar yourself. At the time of your arrest, you had sold about 4 ounces of the bar for £800.

5. You had acquired the paraphernalia needed to sell the drugs. It was found in your house and had been used in connection with the selling of the cannabis.

6. When interviewed you made a full admission of your involvement and entered an early guilty plea for which you are given full credit.

Guidelines

7. 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*”.

8. In *Richards* the Court of Appeal laid down guidelines for the Royal Court to follow when deciding what should be the starting point, that is the sentence that would be appropriate after a full ‘not guilty’ trial and before any mitigation. The guidelines apply to the principal drug trafficking offences, namely importation, supply and possession with intent to supply.

9. In respect of a quantity of cannabis resin weighing up to 2 kgs, the guideline starting point is 3 to 6 years.

10. When applying that guideline, the Court recognises that sentencing is an art, not a science. The Court also has to assess the extent of the criminal conduct involved by reference not just to the quantity of the drugs but also the involvement of the defendant in the commission of the offence.

11. To ensure that the totality of the sentence you will serve is appropriate, the Court has fixed a total starting point as if this was a single count relating to one, 9 ounce bar of cannabis. Accordingly, the starting point is 3 years, 9 months.

Mitigation

12. As I have mentioned, the Court has given you a full one-third credit for your guilty plea. The Court has also taken account of your age.

13. The Court has read the letter written by you and the references produced on your behalf. It is clear that your father and friends are supportive of you. You also had the prospect of a promising career in the hotel industry and we note that your employer is prepared to stand by you. Also, you have a 1 year old son towards whom you have responsibilities.

Youth Detention

14. As you are not yet 21 years of age, the Court has to consider the special statutory provisions relating to the sentencing of young offenders.

15. In this case the Court is satisfied that: each of the offences is so serious that a non custodial sentence cannot be justified.

Drug Trafficking

16. The Court finds that you have benefited from Drug Trafficking to the amount of £800. Realisable assets have been found with a value of £953 and so the Court orders that the amount to be recovered under a Confiscation Order is £800.

Sentence – STAND UP

17. The Court considers that you are at a cross-roads in your life. We encourage you to make full use of all the facilities and training that will be available to you in prison. When you are released, you will have a choice to make. You are only 20 years of age and yet you are being sentenced for your second period of Youth Detention. There is a risk that you might be led into a life of crime with reappearances in this Court and many years spent in detention. Alternatively, you could choose, with the support of your family and your employer and for the good of yourself and your son, to make the most of the career opportunities that lie ahead of you. The Court urges you to think long and hard about those choices while you are in detention. The Court strongly hopes that on your release you will choose to focus on your career and that you will not be seen again in the Courts of this Island. Taking account of all the mitigation and all the circumstances of the case, the Court sentences you to a period of Youth Detention of 2 years on each count, the sentences to run concurrently and to take effect from the date of your arrest, 1 August 2005.

18. Finally, the Court orders the forfeiture and destruction of the cannabis and associated paraphernalia seized in this case.