

**Judgment 6/ 2003**

**Colin Stephen Woodford  
Court of Appeal  
(Criminal Appeal 292)  
9<sup>th</sup> January, 2003**

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**Importation of Class A drug – application of sentencing guidelines**

**IN THE COURT OF APPEAL OF GUERNSEY**

Criminal Division

The 9th day of January, 2003 before Richard Charles Southwell, Q.C., presiding, Christopher Simon Courtenay Stephenson Clarke, Q.C., and Kenneth Stuart Rokison, Q. C.

THE LAW OFFICERS OF THE CROWN

V

COLIN STEPHEN WOODFORD

Appellant

In the appeal of the Appellant from the sentence imposed on him by the Royal Court on 18th October, 2002;

THE COURT, having heard Advocates N. J. Barnes and P. Robey for the Appellant and the Crown respectively, thereon, GAVE JUDGMENT in the terms attached hereto and ALLOWED the appeal, to the extent that the sentence of four and a half years' imprisonment was set aside and replaced by a sentence of three years' imprisonment, to run from 17th July, 2002.

K. H. TOUGH  
Registrar of the Court of Appeal

**OFFICIAL TRANSCRIPT**

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**THURSDAY 9TH JANUARY 2003**

**COURT OF APPEAL**

**Before**

**Richard Charles Southwell, Esq., QC; presiding**  
**Christopher Simon Courtenay Stephenson Clarke, Esq., QC**  
**Kenneth Stuart Rokison, Esq., QC**

**COLIN STEPHEN WOODFORD**  
**(Criminal Appeal No. 292)**

**Judgment delivered by Rokison, JA.**

ROKISON, JA: This is the judgment of the Court.

1. On 18th October, 2002, the Defendant, Mr. Woodford, was sentenced to 4½ years' imprisonment after pleading guilty to an offence of fraudulently evading the prohibition on the importation of a Class A drug. The offence related to a quantity of 5.233 grams of Diamorphine, commonly known as heroin, which Mr. Woodford had brought with him to Guernsey on a flight from Gatwick on 17th July, 2002.
2. When stopped by customs officers and asked if he had anything to declare – specifically controlled drugs- he answered in the negative; but after his arrest on suspicion that he might have drugs concealed internally, at his first interview in custody early in the evening of the following day, Mr. Woodford admitted the offence, and later that evening retrieved the package which had been secreted in his rectal passage.
3. The Defendant was, before his arrest and imprisonment, a resident of Southampton. He was 33 years old and apparently came to Guernsey last year in the course of his employment working for an air-conditioning company engaged as a sub-contractor doing work at the Beau Sejour Centre. This was his fourth visit to the island in the space of about 3 weeks.
4. Mr. Woodford had been a heroin addict over a period of several years from 1994. On the first of his visits to Guernsey he had brought with him a quantity of methadone, supplied on prescription from the Divert Project in Southampton as part of a programme to try to wean him off heroin. But by the time of his fourth visit, that prescription had run out.
5. He initially claimed that the heroin was for his own use. He said that he took about 0.3 grams each day, and on this basis the 18 packages retrieved would have lasted him about 9 days. However, he later admitted in interview that, if asked, he would have been willing to share the drugs with his employer, who was also a heroin user, and who had not only paid for his trips between Guernsey and the UK mainland, but had loaned him part of the money which he had used to purchase the drugs. He denied that his employer had asked him to bring the drugs into Guernsey; but in the Probation Report dated 18th October, 2002, there is a reference to his having claimed that if he had not felt obligated to another party, he would not have brought the drugs to the Island, which the author of the report concludes suggests that a proportion of the drugs were intended for Mr. Woodford's "associate". The street value in Guernsey of the drugs imported was between £1,046.60 and £1,308.25.

6. The Defendant has a long history of various offences, mainly dishonesty, starting from 1986, the more recent said to have been committed in order to support his drug habit. In August 2001, he was made subject to a 9 month Drug Treatment and Testing order by the Southampton Magistrates' Court, but this was not wholly successful. He has had 2 previous convictions for possession of cannabis in 1987 and 1994, but has not previously received a custodial sentence.
7. Mr. Woodford's history over the 15 or so years leading to the offence with which the Court is concerned paints a sad but familiar picture. The Probation Officer's report almost inevitably acknowledges that he proves a significant risk of re-offending.
8. In arriving at its sentence of 4½ years, the Royal Court took as the starting point the lower end of the scale of 7-9 years laid down by this Court in the recent guideline case of Richards and Others (18th April, 2002) for illegal importation of Class A drugs of between 1 and 20 grams, and gave the Defendant full credit of ⅓ for his plea of guilty. As the learned Bailiff rightly pointed out, there was little else to be said for the Defendant by way of mitigation, and the manner of concealment was not only "unpleasant", as the Bailiff observed, but is acknowledged in the authorities to be an aggravating factor.
9. Given the comparative severity of the new guidelines, which reflects the determination of the authorities in these Islands to combat what is described in Richards as "one of the scourges of European Society at the present time", it may be that Mr. Woodford would have no legitimate cause for complaint if this Court were merely to confirm the sentence of the Royal Court.
10. But in the Richards case, this Court was at pains to point out that the guidelines which it laid down were not intended to represent an inflexible code. The Court further acknowledged that there is a clear division to be drawn between importations of very small quantities for personal use, and importations of more than relatively small amounts which still fall within the lower of the bands set out. In the former case, this Court stated that such importations are punished in the same way as offences of simple possession: whereas in the latter case, the fact that a claim is made that a drug was for personal use will not generally result in a lighter sentence being imposed. The division may be clear, but this part of the judgment presents two potential problems:

First, where one should draw the dividing line. What quantities are properly describable as "very small", and what are "relatively small" amounts?

Second, the dichotomy suggested appears to have a lacuna, namely, what is the right approach if it is concluded that the amount is relatively small (not being "very small", but not "more than relatively small") where it is claimed that it was intended or primarily intended for personal use?
11. In the present case, the learned Bailiff acknowledged that "it may well be that some of the drugs" were for Mr. Woodford's own use. But we respectfully doubt whether this conclusion is sufficiently weighted in favour of the Defendant in the light of the matters referred to above. Mr. Woodford's claim that the drugs were at least primarily for his own use is not merely supported by the fact that he was an acknowledged heroin addict (which is not, of course, a mitigating factor as such), but by the fact that his assertion that he used 2 bags of about 0.3 grams per day was confirmed by the report from the Deputy Team Leader of the Divert Project, which concluded: "It would not be unreasonable to assume that this was for his own personal use".
12. We consider this to be a rather difficult borderline case, but, giving Mr. Woodford the benefit of any reasonable doubt, to which he is entitled, we do not think it right to conclude that any of the drugs would have been likely to have found their way into the general market in Guernsey. On that basis we have concluded that the sentence was excessive and therefore give leave to Mr. Woodford to appeal.

13. We take as our starting point a sentence of 4½ years, being roughly the mid-point of the bracket between the lower end of the scale set out in Richards for what can be described as "trafficking" offences (which was taken as the starting point by the learned Bailiff) and the 1½-2½ years which we consider would be appropriate for the offence of simple possession (coupled with the concealment) of this sort of quantity of a Class A drug. Accordingly, giving full credit for the plea of guilty, we allow the appeal and substitute a sentence of 3 years' imprisonment.