

ROYAL COURT

26th September, 1988

Before: The Deputy Bailiff and
Jurats Coutanche and Gruchy

Her Majesty's Attorney General

- v -

Frederick William John Augustus Hervey,
Marquess of Bristol

Bail application pending trial before the Royal Court.
Charges involving "Class A" drugs brought under
Article 23 of the Customs and Excise
(General Provisions) (Jersey) Law, 1978,
and Article 6(1) of the Misuse of Drugs
(Jersey) Law, 1978.

Advocate C.E. Whelan for the Crown
Advocate D.E. Le Cornu for the accused

JUDGMENT

DEPUTY BAILIFF: The first point to be made is the legal one, namely that this is a review of the Magistrate's decision and not an application 'de novo'. We are satisfied that Mr Whelan is correct on this point and the authorities cited leave no room for doubt. Indeed, Mr Le Cornu, I think, accepted it because in his reply he attacked only the question of the reasonableness of

the Magistrate's decision. Therefore, as the Court said in the case of A.G. -v- D.H. Chapman 1978 40 P.C. 413, we can entertain the application only if it can be shown that the Magistrate failed properly to exercise his discretion when he refused to restore bail after the breach of condition.

We have considered very carefully all that has been said and we have read all the documentation made available to us by counsel. The crux of this matter is to be found at page 11 of the transcript, where the Magistrate finds that the applicant has compromised the Police Court's belief in his reliability and in whether he would appear and that in that case it followed that the applicant must remain in custody.

We are quite unable to find that the Magistrate misdirected himself, proceeded irregularly, or that his decision was unreasonable. Therefore the application must fail and is dismissed. We might add that bail had already been refused, on review, on one previous occasion by the Royal Court before the Magistrate granted bail at all. If this Court had been hearing the application for the first time, we would have had regard to the seriousness of the importation of cocaine into Jersey and the principles set out in the case of A.G. -v- N. Makarios J.J. 1978 215, and the applicant would not have enjoyed even the limited freedom that he was allowed by the Magistrate.

The application is dismissed.

Authorities referred to in the judgment:-

A.G. -v- D.H. Chapman 1978 40 P.C. 413.

A.G. -v- N. Makarios J.J. 1978 215.

Other authorities referred to:-

A.G. -v- M.A. Gourlay J.J. 11th July, 1986; as yet unreported.

A.G. -v- D.A. McConnachie J.J. 11th July, 1986; as yet unreported.
Hampton on Criminal Procedure (2nd Edition) at p.73 re. "Principles of bail".