

ROYAL COURT
(Samedi Division)

20th June, 1997

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Before: F.C. Hamon, Esq., Deputy Bailiff,
and Jurats Le Ruez, and Le Brocq.

The Attorney General

- v -

Tyrone Keith Le Mottée

1 count of possession of a controlled drug with intent to supply, contrary to Article 6 (2) of the Misuse of
Drugs (Jersey) Law 1978.
Count 1 : amphetamine sulphate.

1 count of supplying a controlled drug contrary to Article 5 (b) of the Misuse of Drugs (Jersey) Law 1978.
Count 2 : amphetamine sulphate.

Age: 27.

Plea: Guilty.

Details of Offence:

During a search of Le Mottée's bedroom police discovered 34 wraps of amphetamine sulphate [average concentration of 3% by weight, a total weight of 18.44 grams and street value of £340]. Le Mottée was cautioned and made an immediate admission that the drugs were his. In a subsequent interview under caution he stated that he had purchased one ounce of amphetamine sulphate for £200 in a public house, had divided the drug into forty individual wraps and had sold five wraps for £50 and that he intended to sell the remainder and make a total profit of £200.

Details of Mitigation:

Plea of guilty, co-operation [effectively wrote his own indictment with regard to count 2].

Previous Convictions:

In 1990 for breaking and entering and motoring offences [fined].

Conclusions:

Count 1: 1 year's imprisonment
Count 2: 1 year's imprisonment concurrent.

Sentence and Observations of the Court:

Conclusions granted. This was a case concerning the supply of and possession with intent to supply amphetamine sulphate [Class B] on a commercial basis.

The lowest sentencing band identified in Campbell, Molloy, MacKenzie is Band "C" which refers to cannabis weighing between 1 and 10 kg and having a street value of between £5,600 and £56,000 and for which the sentencing band ranges from two to six years' imprisonment.

Advocate Harris argued that because the street value of the drugs in this case [£340] is considerably less than the lowest value [£5,600] in Band "C" the twelve month sentence sought by the Crown was too high. He sought to distinguish the Crown's cases on the basis that the Court in those cases had not given specific consideration to the sentencing for the amphetamine which had been swallowed up in larger sentences on other counts. Advocate Harris referred to McDonough.

Court felt that comparisons of cases below Band "C" were not helpful [i.e. McDonough cited by Advocate Harris] and granted the Crown's conclusions without laying down any standardised approach to sentencing for possession below Band "C".

P. Matthews Esq., Crown Advocate.
Advocate P.Harris for the Accused.

JUDGMENT

THE DEPUTY BAILIFF: At 5pm on the 1st March this year a search warrant was issued for Flat 1, 57, Don Street, St. Helier. In one of the bedrooms occupied by Le Mottée, who later entered the property, were found a number of paper wraps and cash.

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In response to a caution, Le Mottée stated that the drugs were his and that they were "speed". The 34 paper wraps showed a positive reaction for amphetamine sulphate which when analysed had an average concentration of 3% by weight. The total weight was 18.44 grams.

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In a cautioned interview, Le Mottée admitted that he had bought 1 ounce of amphetamine sulphate for £200 and had divided it into 40 individual wraps. He had already sold 5 of these wraps for £50 and was hoping to make £200 profit. The total street value was £340 which is a commercial quantity of the drug.

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Cases of less than 1 kg. fall below 'band C' described in Campbell Molloy and Mackenzie -v- A.G. (1995) JLR 136 CofA. Band C deals with drugs with a street value of between £5,600 and £56,000 or between 1 and 10 kgs. The sentencing in that band would have a starting point of between 2 and 6 years.

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Mr Harris has said everything that he could say on Le Mottée's behalf. It may indeed be rare to find a case of supplying that involves only amphetamine sulphate, but we feel that comparisons of cases below the class 'C band' are not helpful. We must look at this case overall, weighing on the one hand the fact that Le Mottée has been co-operative and written his own indictment of count 2 and, on the other hand, the fact that he was supplying these poisons in "Chambers", and if he had not been

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apprehended would have undoubtedly continued supplying them, possibly amongst young people.

5 In the circumstances, Mr Harris, despite your arguments, we feel the conclusions of the Attorney General are correct and Le Mottée we are sentencing you to 12 months' imprisonment.

Authorities

Attorney General -v- Hanney (3rd April, 1995) Jersey Unreported.

Attorney General -v- McDonough (7th March, 1997) Jersey
Unreported.

Campbell, Molloy and Mackenzie -v- A.G. (1995) JLR 136 CofA.