

IN THE GRAND COURT OF THE CAYMAN ISLANDS

HOLDEN IN GEORGE TOWN, GRAND CAYMAN

SCA #11 OF 2002

27-02-03

MARVA GRAHAM

VS

REGINA

Reasons for Judgment delivered by THE HONOURABLE

MR. JUSTICE SANDERSON on Thursday, February 27, 2003,

at George Town, Grand Cayman.



APPEARANCES:

For the APPELLANT:

MR. L. AIOLFI

For the RESPONDENT:

MR. A. ROBERTS

(REASONS FOR JUDGMENT - SANDERSON, J.)

1 SUMMARY COURT APPEAL 11/02,

2 THURSDAY FEBRUARY 27TH 2003.

3

4 THE COURT: In this case the defendant,
5 Marva Graham, appeals a sentence of eleven
6 years imposed by the learned magistrate in
7 respect of the conviction for possession of
8 cocaine with intent to supply.

9 The amount of cocaine involved was
10 approximately 18 ounces, and had been ingested
11 by Miss Graham for the purpose of bringing that
12 cocaine into the country.

13 Ms. Graham, of course, has pled guilty to
14 that charge, and has indicated through her
15 counsel that she has cooperated with the
16 authorities. Unfortunately, that cooperation
17 did not result in the arrest, charge, or
18 conviction of any other person, so far as I am
19 aware.

20 The learned magistrate started with a
21 sentencing guideline of 15 years, based upon
22 the guidelines published by the Chief Justice
23 in January of 2002. Those guidelines read:

24 "For offences involving two
25 ounces or more -- or four grams

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1 or more -- of cocaine base,
2 without mitigating
3 circumstances, the tariff will
4 be 10 to 12 years. Fifteen
5 years or more will be imposed
6 where such an offence involves
7 substantial importation, or
8 dealing in any way, either in
9 powder or crack cocaine. We
10 would define 'substantial
11 importation' or 'dealing' as any
12 transaction involving several
13 ounces or kilo quantities."

14 The question in this case is whether or
15 not this is substantial importation or dealing.
16 I am satisfied that 18 ounces must be
17 considered to be a "substantial amount". That
18 is almost half a kilogram. The guidelines
19 specify "several ounces" or "kilo quantities".
20 Eighteen ounces would be "several ounces" and
21 "kilo quantities" does not necessarily mean
22 more than one kilo. A half kilogram -- or more
23 than a pound -- of cocaine is a substantial
24 amount.

25 I cannot readily draw a distinction in

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1 principle between half a kilo of cocaine and
2 one kilo of cocaine. I therefore conclude that
3 18 ounces is substantial importation or dealing
4 and, therefore, conclude that the starting
5 point should be 15 years for an offence such as
6 this.

7 Mr. Aiolfi has helpfully referred me to a
8 number of authorities where sentences were
9 passed under the previous guidelines. Those
10 were the guidelines of Chief Justice Harre.
11 Under those guidelines, the starting point for
12 such an offence would also have been, in my
13 view, 15 years. Those cases are, therefore,
14 somewhat helpful in determining what our Court
15 of Appeal would consider to be an appropriate
16 sentence in circumstances such as this case.

17 In this case, Miss Graham is 35 years
18 old -- I am sorry 36 years old -- with no prior
19 convictions. She has three children ages four,
20 six and 12; two of whom are staying with a
21 friend.

22 She has done well in prison and I have
23 been given a letter from Blake Scott her
24 principal officer, confirming that to be the
25 case.

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1 She pled guilty, although as Mr. Roberts
2 points out, her guilty plea cannot be treated
3 as significantly as it might be in some other
4 cases, because of the circumstances of this
5 case; namely, she had swallowed the narcotics,
6 and a defence would have been difficult, if not
7 impossible, in those circumstances. But she,
8 nevertheless, did plead guilty and must be
9 given some credit for that.

10 Second, as I have mentioned, she is a
11 person with no prior convictions.

12 Third, she has cooperated with the police.
13 That degree of cooperation has not resulted in
14 any arrests, but I am not persuaded, on the
15 material before me, that she has given less
16 than full cooperation.

17 Fourth, she was not what I would consider
18 to be a "high up" in the chain of drug
19 importation. She was what is commonly
20 described as a "mule". She was being paid a
21 thousand dollars to bring these narcotics into
22 the country.

23 Having reviewed all of the authorities
24 that Mr. Aiolfi has referred me to, dealing
25 with sentences for similar offences with

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1 similar amounts of cocaine, the range from the
2 Court of Appeal is any anywhere from five and a
3 half to approximately eleven years. The
4 sentence in this case was eleven years.

5 I am satisfied that if this matter were to
6 go to the Court of Appeal, based upon the
7 authorities that have been referred to, it is
8 likely that the sentence would be reduced.

9 I think the most appropriate sentence in
10 this case is to reduce the sentence from eleven
11 years to a term of nine years.

12 The appeal is allowed and the sentence is
13 reduced to nine years.

14 Gentlemen, I reserve my right to correct
15 and edit the reasons for judgment.

16 MR. AIOLFI: My Lord, thank you.

17 THE COURT: Thank you.

18
19 (PROCEEDINGS CONCLUDED AT 12:43 P.M.)



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24 

25 THE HONOURABLE MR. JUSTICE SANDERSON