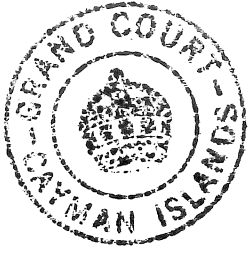


THIS JUDGMENT IS NOT FOR GENERAL CIRCULATION. CIRCULATION IS RESTRICTED TO THE APPELLANT, CROWN COUNSEL AND, IN THE EVENT OF APPEAL, FOR COURT OF APPEAL PURPOSES.

IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN

SCA #7 of 1993

CHARLES RANSFORD MCFIELD V. REGINA



JUDGMENT

Appellant in person
Mr. Archie for the Crown

Schofield J.

Charles Ransford McField ("the appellant") was convicted, after trial, of offences of being concerned in the possession of cocaine with intent to supply, and consuming cocaine. He received concurrent sentences of imprisonment four years and six months respectively. He has restricted his appeal to sentence.

It is clear that the appellant involved himself with others, including his brother, in a deal involving cocaine cynically and with a view to gain. The appellant has a conviction for possession of cocaine with intent to supply and the current offence was committed whilst he was on bail for the earlier offence. In normal circumstances the appeal against sentence would present this Court with few problems.

However the appellant is HIV positive and has shown symptoms that he has developed AIDS. When he appeared before the Court for the earlier offence on the 26th October, 1992, a letter from the Medical Officer of Health was produced which described the appellant's prognosis as very poor and he was soon expected to be bedridden. This caused the learned Magistrate to impose, on the appellant's plea of guilty, a suspended prison sentence. He did not know when he imposed such sentence that the appellant

had been arrested for the current offence. It would have been better had he been informed of this after the conviction was recorded so that he could defer sentence in the first matter until the issue of guilt had been determined in the second.

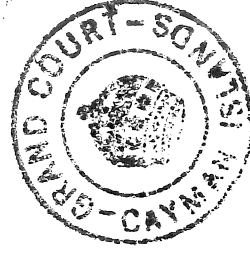
Be that as it may the learned Magistrate, on finding the appellant guilty of the current offence, on 3rd February, 1993, sentenced the appellant to these immediate terms of imprisonment in spite of his illness. I am now asked to review the sentences.

On 26th October, 1992, the learned Magistrate imposed a suspended sentence of imprisonment for an offence which in normal circumstances carries a severe immediate custodial sentence. He did so no doubt as an act of mercy to give the appellant an opportunity to spend his last days quietly with his family. On the 3rd February, 1993, the learned Magistrate found that rather than spending his last days quietly with his family the appellant was apparently adopting a could-not-care-less attitude and was pursuing his illicit dealings in drugs. The learned Magistrate clearly felt that his duty to the public outweighed his concern for the appellant.

I have caused enquires to be made of the appellant's present physical condition. He is far from bedridden. He is far from being hospitalised regularly. He is very much on his feet and active. Of course I do have sympathy with the appellant's condition but my concern for the victims of the drug trade outweighs my concern for him. If he were severely incapacitated because of his illness I may adopt a different approach and if he does become seriously ill no doubt executive action will be considered. That is not for me to decide or recommend.

As it is the appeal is dismissed.

Judge



Dated this 12th day of November, 1993