

SAINT LUCIA

EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
(CRIMINAL)

CASE NO. SLUCRD2015/0207, 0207, 0207A, 0207B, 0207C

BETWEEN

THE QUEEN

and

COURTNEY ANTHONY SAMUEL

Defendant

Appearances:

Ms. Khadia Florius for the Crown
The Defendant in Person

2017: January 27.

NOTES TO DECISION

- [1] **TAYLOR-ALEXANDER, J.:** The Defendant, Courtney Samuel by indictment filed 29 January, 2016 was indicted by the learned Director of Public Prosecutions on a four count indictment for Possession of Controlled Drugs and for Possession with Intent to Supply; contrary to sections 8(2) & 8(3) respectively of the Drugs (Prevention of Misuse) Act [Drugs Act] Chap. 3:02 of the Revised Laws of Saint Lucia 2008.

The Facts

- [2] On the 1st March 2016 and at the first reasonable opportunity he was arraigned the Defendant entered a plea of not guilty. On the 5th day of October 2016, the Defendant was re-arraigned and entered a plea of guilty to all counts on the indictment.

- [3] The allegation was that on Saturday the 24th day of January 2015, about 8:10am at Cap Estate, Gros-Islet, a crew of three (3) police officers under the command of Cpl. 640 Noel, conducted a search of the Defendants apartment, and found in the possession of the Defendant, the controlled drug, Cocaine; of a total weight of 18.9kg, and Cannabis with a total weight of 30.6g.
- [4] Both Cocaine and Cannabis are Class A offences and under schedule 3 of the Drug (Prevention of Misuse) Act the offences carry a maximum sentence of 7 years imprisonment or \$200,000.00 for possession; a maximum of 14 years or \$200,000.00 for possession with intent to supply. The Defendant pleaded guilty and is now to be sentenced.
- [5] In sentencing the Defendant I am reminded of the principles of sentencing stated in **R v Sergeant** and restated by Byron CJ in **Desmond Baptiste and the Queen** CA No. 2 of 2003; as applicable to our jurisdiction. That is Deterrence, Prevention, Rehabilitation and Retribution.
- [6] I have applied the aims as follows:

Deterrence

- [7] These drug offences are a scourge on our society, its effect on the social fabric is visible around us, and forces governments to spend too much of their little resources on attempting to curtail this scourge. Society has reflected its intolerance for drug offences by the increasingly harsher penalties imposed by the legislature.
- [8] The courts are required to do their part to reflect societies intolerance for this conduct. It's objective is also to prevent redivision into criminal activity.

Prevention

[9] I am guided that a harsher sentence here is more suitable for a repeat offender.

Rehabilitation

[10] This is of course self-explanatory. Sentencing here can have mixed results, and the offenders age and previous record may give some indication of its success.

Retribution

[11] To manifest a denunciation by the Court for the conduct in which the offender is engaged.

The Defendant

[12] The Defendant is a 38 year old man, who claims to be a welder by profession. He states that he is a father of four (4) children and his actions at the time were of a desperate man who was in dire financial problems. He has no previous convictions. He pleaded guilty early although not at the first available opportunity.

[13] The Aggravating and Mitigating factors identified by the Crown are as follows:

Aggravating Factors

1. The quantity and value of the cocaine found in the possession of the defendant – 30.6g Cannabis and 18.9kg of cocaine.
2. The prevalence of drug offences, and drug trafficking in St. Lucia and the Caribbean.
3. The seriousness of the offence of possession of drugs, especially possession with intent to supply

Mitigating Factors

1. The defendant has no previous convictions;
2. The defendant pleaded guilty.

- [14] I accept these as the Aggravating and Mitigating factors.
- [15] I accept that the Aggravating factors outweigh the Mitigating factors. I am also guided by the dicta of Benjamin J in **Cuthbert Felix v The Queen** as follows:-
- "The Court must avoid, whenever possible, the perception that drug crimes are amenable to payment of fines in a trade where the object is clearly one of financial gain. Such a trend has the potential of escalating the illicit trade for the purpose of generating money for the payment of fines."*
- [16] Given that the Aggravating factors outweigh the Mitigating factors; the quantity of drugs involved; and judicial treatment of those types of offences; I am of the considered view that a custodial sentence is warranted in the circumstances.

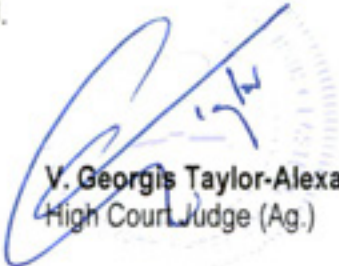
SENTENCING RANGE

- [17] I used a benchmark of 4 years for the offences of possession and 10 years for possession with intent to supply.
- [18] I have considered the authorities supplied by the Crown namely:

The Queen v Herman Belasse concurrent sentences of three (3) years imprisonment for possession of cocaine and possession of cannabis, as well as five (5) years imprisonment for possession with intent to supply. It is also to be noted that like the case at bar Belasse plead guilty at the earliest opportunity. However unlike this defendant who has no previous conviction, Belasse had a conviction.

The Queen v Keran Louis, where concurrent sentences of two (2) years imprisonment for possession of cannabis five (5) years imprisonment for possession of cannabis with intent to supply. The weight of the cannabis in that case was 93.08 kilograms, with an estimated street value of one hundred and sixty-five thousand, four hundred and forty (\$165,440.00) dollars. However unlike the defendant in the case at bar Keran Louis had a previous conviction for a similar offence.

- [19] I have also considered **Q v Albert Robin** out of St. Lucia where the Defendant with a previous conviction was found with a quantity of Class A drug weighing 22.38kg was sentenced to 2 years for the offence of possession and 7 years for possession with intent to supply.
- [20] The notional sentence this court would likely impose is 3 years on each of the possession charges and 8 years for each of the possession with intent to supply.
- [21] I apply the discount for the early guilty plea and the Defendant's previous good character and sentence the Defendant to 1 year on the charge of possession of Cocaine, and 6 months on the charge of Possession of Cannabis and 3 years on each of the possession with intent to supply, the sentences are to be served concurrently.
- [22] Credit is to be given for time spent on remand.



V. Georgis Taylor-Alexander
High Court Judge (Ag.)

