

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

SAINT LUCIA

CRIMINAL CASES NOS. SLUCRD2007/0646 & 647

BETWEEN:

THE QUEEN

Claimant

AND

LEO ST. BRICE

Defendant

Appearances:

Mr. A. Alcide, Counsel for the Defendant
Mr. S. Cenac, Crown Counsel, for the Crown

.....
2011: April 11 and 15
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SENTENCING JUDGMENT

- [1]. **BENJAMIN, J.:** On May 25, 2007 at about 6:00 p.m., Police Officers drawn from the Drug Squad and the Special Service Unit went to the premises of the defendant, Leo St. Brice, at St. Jude's Highway near the town of Vieux-Fort. WPC 616 Fontenelle was in possession of a warrant to search the said premises.

- [2]. On arrival at the premises, the defendant was absent. Two officers left in search of the defendant while others remained to ensure there was no ingress to or egress from the premises. The defendant was located in town of Vieux-Fort at the Fisheries Complex. He was escorted to the premises. WPC Fontenelle executed the search warrant in the presence of a Justice of the Peace.
- [3]. The defendant was asked if he had any illegal drugs in the house and he pointed out a brown box in a spare room. The box contained a package. When the package was opened the defendant was told the substance was suspected to be cannabis. The search continued in the same room and a solid brownish substance was found on top of a wardrobe. The defendant was asked what it was and he replied: "Officer, hash." 'Hash' is commonly known to be marijuana resin. Also recovered on the wardrobe were two rolls of tape. The search continued in the kitchen where a small scale was found and kept by WPC Fontenelle.
- [4]. The search party moved to the curtilage of the premises in which there were two parked vehicles, a motor pick-up van and a green and white Suzuki jeep. The defendant admitted to owning these vehicles and handed over the keys to the vehicles. The search of the pick-up van yielded nothing. In searching the Suzuki jeep, under a green and white bed sheet or blanket, four black packages were discovered. The defendant was told that these packages were suspected to contain cannabis and the defendant verbally agreed. The items and packages found were taken to the Vieux-Fort Police Station along with the defendant in a Police vehicle.
- [5]. In a Certificate of Analysis, the Analyst certified the contents of the packages to be controlled drug, cannabis. The weight of the five (5) packages was given as 101.5 kilograms. WPC Fontenelle in her evidence stated that the controlled drugs were valued at \$178,400 in the year 2007.

- [6]. The trial commenced before a common jury. On the fourth day of the trial, the defendant changed his plea to guilty in respect of both counts on the indictment.
- [7]. On conviction of indictment, the maximum penalty for possession of Class A controlled drug, such as cannabis, is seven (7) years or \$200,000, and in the case of possession of such drug with intent to supply to another, it is fourteen (14) years imprisonment and a fine of \$200,000 (*see schedule 3 Part1 of the Act*).
- [8]. The Court has had the benefit of a pre-sentence report prepared by a Probation Officer. In addition, based on representations made by Defence Counsel, the Court also sought and obtained a psychiatric report. The latter report by the consultant psychiatrist stated that the defendant upon examination was found to be alert, oriented and without signs of psychosis ("no hallucinations nor delusions").
- [9]. The defendant was raised by his mother and stepfather and he attended secondary school at Micoud. One year after leaving school, he migrated to Martinique where he remained for seven (7) years until returning to take up permanent residence back in Saint Lucia. Having resided in various parts of the country, he last resided at St. Jude's Highway (the locus of the offences) for the last fifteen (15) years.
- [10]. The defendant has three (3) adult children from previous relationships and one of them was present at the time of the search. The defendant has, subsequent to the date of the offences, gotten married one (1) year ago. The couple has two children aged three (3) years and nine (9) months. The defendant also has a four (4) years old stepson. The defendant's spouse is not employed.
- [11]. The defendant earns his livelihood through a boat he owns and from the farming of family land growing fruits and vegetables for sale at the market. No additional details were

supplied to the Court save that two (2) persons are employed to reap the harvest of fruits and vegetables.

- [12]. Soon after the defendant was charged, he accepted the Muslim faith and this is evident from his headwear. The Court was informed that this has led to changes in his life and brought stability to his outlook on family relationships. Indeed, persons in the community and family members speak of him as providing assistance to others and as not being a person to create problems in the community.
- [13]. There is no record of any previous convictions in Saint Lucia but the defendant volunteered to the Probation Officer that he was convicted and incarcerated in Martinique for the possession of drugs. He spent fifteen (15) months in prison before being released in April 2006. It is to be noted that this took place approximately one (1) year before the present offences were committed. This blemish to the defendant's antecedents operates as an aggravating feature for the purpose of sentencing.
- [14]. The Court is statutorily mandated to approach sentencing on the basis of the general guidelines set out in section 1102 of the Criminal Code of Saint Lucia 2004. These include the treating of rehabilitation as one of the aims of sentencing. Also, the Court must ensure that the seriousness of the punishment is commensurate with the gravity of the offence. With regard to the latter principle, note must be taken of the level of the maximum sentences previously referred to.
- [15]. In dealing with the sentencing of the defendant (as for all offenders to be sentenced) the Court must weigh the mitigating factors against the aggravating features of the cases. In doing so the Court must bear in mind and apply the judicial guidelines prescribed by the Criminal Code. In addition, the general classic principles of sentencing as recalled by Byron, CJ in the case of **Desmond Baptiste et al. v. The Queen** – Criminal Appeal No. 8 of 2003 (Saint Vincent and the Grenadines) must be considered.

- [16]. The Court cannot ignore the potential harmful effect on potential abusers of the controlled drugs involved in this case having regard to the decidedly large quantity. Consequently, the sentence must reflect the condign disapproval of the society and serve as a deterrent to others who might contemplate trafficking in controlled substances.
- [17]. The mitigation coupled with the pre-sentence report indicate that the defendant has adopted a settled family existence and embraced Islam. This augurs well for his future and suggests that the path to rehabilitation has begun.
- [18]. The Court cannot ignore the prior admitted conviction for a like offence. Further there is no discount accruing as the change of plea was adopted after four days of trial and at a juncture in the proceedings when conviction was looming large.
- [19]. In the premises, the defendant is sentenced to four (4) years imprisonment on the second count for possession with intent to supply to another person. In addition, the defendant is ordered to pay a fine of fifteen thousand dollars (\$15,000) on or before January 3, 2012 in default of which, the defendant shall serve a period of twelve (12) months imprisonment which shall be consecutive with the sentence of four (4) years imprisonment. On the first count of simple possession of cannabis the defendant is sentenced to three (3) years imprisonment, which sentence shall run concurrently with the sentence on the second count.


KENNETH BENJAMIN
HIGH COURT JUDGE