

HADDAD v. R.

COURT OF APPEAL (Fieldsend, P., Davis and Neill, JJ.A.):
February 28th, 1997

Sentencing—drugs—importation—sentence—tariff—4 years' imprisonment appropriate for importation of reasonably large quantity of cannabis resin—117 kg. imported—caught throwing drugs into sea to avoid detection—poor family background—large financial inducement to commit offence—3 years' imprisonment

The appellant was charged in the Supreme Court with offences relating to the importation of drugs.

The appellant, a young Moroccan, was apprehended importing 117 kg. of cannabis resin into Gibraltar. He was from a poor family with a widowed mother, had been offered a large sum of money to import the drugs and had apparently attempted to evade detection when caught by police (by throwing the drugs from his boat into the sea). He was subsequently convicted on pleas of guilty of importing the drugs, possession of them and obstructing the police under s.18(4) of the Drugs (Misuse) Ordinance and sentenced to four years' imprisonment on each count, the sentences to run concurrently.

On appeal against sentence, he submitted that the sentences were too severe for the quantity of drugs involved; that the sentence for possession should in principle be lower than that for importing; and that the maximum sentence for an offence under s.18(4) was two years' imprisonment. He pleaded his family circumstances and the financial inducement in mitigation, plus the fact, accepted by the Crown, that he was also liable to punishment in Morocco for the same offences.

Held, allowing the appeal:

The sentence of four years' imprisonment for importing larger quantities of cannabis was more or less standard, in view of his plea. In view of the mitigation, his sentence would be reduced to three years' imprisonment on the importation count, to two years' imprisonment on the count of possession and to one year's imprisonment for the obstruction, which was by no means the most serious form of the offence (page 78, lines 25–37).

D. Bossino for the appellant;

C. Pitto for the Crown.

FIELDSEND, P., delivering the judgment of the court: At the end of argument in this appeal, the court substituted for the sentence imposed the following sentences: on Count 1, three years' imprisonment; on Count 2, two years' imprisonment; and on Count 3, one year's imprisonment, all sentences to run concurrently. These are the reasons for that order. 5

The appellant, a young Moroccan of 22 years of age, was convicted on his pleas of guilty on one count of importing 117.1 kg. of cannabis, one count of possession of the same quantity of cannabis and one count of obstructing the police acting in pursuit of their powers under s.18 of the Drugs (Misuse) Ordinance. He was sentenced to four years' imprisonment on each count, all to run concurrently. 10

He comes from a poor family of four brothers and four sisters who, so far as they can, support their widowed mother. He was offered £2,000 to run a consignment of cannabis resin from Morocco in a small dinghy with a 40 hp motor. The boat was intercepted by the police heading north some 200m. off the North Mole. The boat circled and the occupants were seen to throw overboard a number of bales. Four were recovered and found to contain 117 kg. of cannabis resin. 15

Three points are taken on appeal. First, the maximum sentence for obstructing the police under s.18(4) is two years' imprisonment; secondly, the sentence for possession in Count 2 should on principle be less than the sentence on Count 1; and, thirdly, the sentence on Count 1 on a young man who pleaded guilty is excessive when viewed in the light of other similar cases. 20

The sentence of four years on Count 1 is a more or less standard sentence for the importation of cannabis in any quantity, particularly when there has been no plea. The quantity brought in by the appellant was somewhat less than that in the cases cited to us, but this is not a point of much significance. Of more import are the particular facts relating to the appellant—his age, his circumstances, the temptation offered him, the somewhat amateurish execution of the offence and the fact, apparently accepted, that he may well be punished again in Morocco for what he has done. 25

Taking into account all these features, we considered that a sentence of three years' imprisonment on Count 1 was an adequate sentence, with two years on the lesser count of possession and one year for obstruction, which was by no means the most serious form of this offence. 30

Sentences reduced.