



THE COURT OF APPEAL

Neutral Citation Number: [2015] IECA 116

**Birmingham J.
Sheehan J.
Mahon J.**

The People at the Suit of the Director of Public Prosecutions

Appeal No. 9/2014

Respondent

- And -

Eddie Uzell

Appellant

Judgment of the Court (ex tempore) delivered on the 9th day of June 2015 by Mr. Justice Mahon

1. The appellant was sentenced to five years imprisonment (with the final two years suspended on certain conditions) at Dublin Circuit Criminal Court on 17th December 2013, following upon his plea of guilty to the offence of possession with intent to supply contrary to s. 15 and s. 27 (as amended by s. 6 of the Misuse of Drugs Act 1984), of the Misuse of Drugs Act 1977, and Regulations made there under, a plea which had been notified to the respondent and the court just over two months prior to the scheduled trial date.
2. The value of the heroin which was intended for supply was €1,288. While the appellant immediately admitted ownership of the drugs, he did not initially agree that they were for sale or supply.
3. This appeal is against the severity of that sentence. The sentence is criticised as been excessive on a number of grounds including, and by way of summary:-
 - The learned sentencing judge's explicit rejection of the evidence of Garda Flaherty to the effect that the appellant was under pressure to pay a drugs debt, and was a heroin addict at the time,
 - A failure to attach sufficient weight to the appellant's personal background and family circumstances,
 - A failure to attached sufficient weight to the appellant's promising attempts at rehabilitation (in particular his involvement and contact with the HSE and Tiglinn in the months prior to sentencing),
 - The failure of the judge to give sufficient credit to the appellant for the fact that he had been conviction free for a period of approximately two years before the sentence was imposed, and that within this period the appellant had undertaken courses and had made some headway in generally improving his personal circumstances.
4. In relation to Garda Flaherty's evidence, the learned sentencing judge explained fully his reason for taking issue with what was contended by that witness. Having so explained, he was quite free to approach the sentencing on that basis.
5. To the appellant's credit is the fact that he pleaded guilty, although he did so at a relatively late stage. It is also the case that the appellant acknowledged ownership of the drugs immediately, but he did not immediately agree that his possession was to facilitate the sale or supply until much later.
6. Both of these facts, together with the appellant's own personal circumstances and his background, justify a sentence which incorporates a significant suspended element.
7. However, the most insignificant factor in this case in the context of arriving at an appropriate sentence, is the fact that the appellant has an enormous number of previous convictions; sixty two in all. Very seriously, three of these relate to similar type offending involving illicit drugs. This was clearly a major factor in the learned sentencing judge's mind. One of these previous convictions concerned drugs with a value of €5,000, and resulted in a lengthy prison sentence just two and a half years prior to the commission of this offence, and the appellant had only been released from prison for a short period before similarly offending again. These previous convictions obviously and understandably influenced the learned sentencing judge's approach to the sentence; his sentence had to reflect appropriately the fact that the appellant was engaged in drug dealing over a prolonged period of time, and had re-offended. His decision to suspend two years of the sentence during his time in custody and for a period of two years post release was explicitly designed to persuade the appellant not to do what he had previously done, that is, return to drug dealing soon after his release from prison.
8. Another important factor in this case - and one recognised by the sentencing learned sentencing judge - is the hugely harmful consequences of drug dealing to so many individuals and their families, and to society generally, and the need for the courts to reflect that in their sentencing for drug offences, and in particular repeat offending involving illicit drugs.
9. There are certainly positive signs for rehabilitation in the case of the appellant, and the hope that his drug dealing days are over. This is adequately and appropriately catered for in a significant element of the sentence being suspended on strict conditions.
10. In all the circumstances the sentence of five years was appropriate, as was the decision to suspend the last two years of that sentence. This court has not identified any error of principle in the sentence, or any aspect of it, and accordingly dismisses the appeal.