



**THE COURT OF APPEAL**

**[156/2018]**

**The President  
Irvine J.  
Kennedy J.**

**BETWEEN/**

**THE DIRECTOR OF PUBLIC PROSECUTIONS**

**RESPONDENT**

**- AND -**

**OSAZE OSAGIE**

**APPELLANT**

**JUDGMENT of the Court (ex tempore) delivered on the 18th day of February 2019 by Ms. Justice Kennedy**

1. This is an appeal against severity of sentence. The sentence under appeal was imposed in Galway Circuit Court on the 9th May, 2018 following pleas of guilty to three counts contrary to s.15 of the Misuse of Drugs Act 1977 (as amended). The appellant received a sentence of six years on each count with the final three years suspended for a period of five years.
2. By way of background to this appeal; members of an Garda Síochána executed a search warrant on the 19th February, 2016 in respect of an address at Ballinfoyle Park, Galway. Nobody was present in the house at the time of the search, during which the Gardaí discovered a wardrobe with a false compartment located in the appellant's bedroom. In this hidden space, was found a quantity of controlled drugs; namely; cannabis herb to a value of €4,250.00, ecstasy tablets to a value of €8,180.00 and cocaine to a value of €59.00. A sum of cash of €1,140.00 was also found. The total value of the drugs being €12,493.00.
3. When arrested, the appellant did not make admissions regarding the substances found. He was released without charge and the wrappings containing the drugs were subjected to fingerprint examination. The appellant's prints were identified and he was re-arrested. He gave no explanation and was charged with the three offences, the subject of this appeal.
4. On the 27th February, 2018, which was the trial date, the appellant pleaded guilty. Evidence was given as I have outlined. The court was informed that the appellant had eleven previous convictions concerning road traffic offences and public order offences. He has a date of birth of the 31st March, 1995 and was twenty years old on the date of the offences and twenty-three years old when sentenced. During interview in Garda custody, the appellant, who is originally from Nigeria explained how he came to Ireland when he was nine years old with his family, and when he was sixteen years old, difficulties arose within the family and he moved out. He admitted in interview, a key having been found on his person, that this was the key to the house where the drugs were found.
5. The Garda accepted in cross examination when asked as to the value of the pleas of guilty, that such saved court time and expense. It seems that the fingerprint evidence did not meet the numeric threshold for court presentation. Gardaí also accepted that while he did not initially cooperate, the appellant did in fact do so, by virtue of his ultimate approach in pleading guilty. Through the Probation Officer, he expressed remorse for his actions and the Gardaí accepted that he had insight into his conduct, that he had employment, that he was in a relationship and had a child.
6. Significantly, the Garda accepted that while he was dealing in drugs at the time of his arrest, by the time of sentence he no longer featured on the Garda radar.
7. The appellant has advanced five grounds of appeal, however, I think it is fair to say that the gravamen of the complaint concerns the notional sentence of nine years' imprisonment. It is submitted on behalf of the appellant, that nine years was not within the range identified by the judge, which the judge stated to be at the lower end of the mid-range.
8. In the course of his detailed sentencing remarks, the judge addressed the facts of the offence and identified the aggravating and mitigating factors. In assessing the gravity of the offence, he identified the fact that the appellant was in the business of selling drugs for profit, that he was a drug dealer and he took into account the variety of drugs involved. This court would add to that, in the assessment of the role played by the appellant, the circumstances in which the drugs were found; being in a concealed compartment and the fact that a sum of cash was found; all of which point to the fact that the appellant was dealing in drugs. The judge, in our view was correct in placing emphasis on the appellant's role in assessing the gravity of the offence. The appellant was not involved in the capacity of a courier or some such but played a very significant role in the supply of drugs. We are satisfied that, while the pre mitigation sentence may have been at the outer range, it was within the margin of appreciation permitted for such offences.
9. In mitigation, the judge considered all possible aspects of mitigation, including the plea of guilty, the probation report, his youth, his family circumstances. In reducing the sentence by virtue of this mitigation, he gave the appellant significant credit. He then, proceeded to suspend the final three years of the sentence, in order to incentivise rehabilitation.
10. The maximum sentence is one of life imprisonment, taking into consideration the role of the appellant, the value of the drugs and the assortment of the drugs, we can see no error by the sentencing judge in the assessment of gravity or in the sentence actually imposed on the appellant and consequently, we dismiss the appeal.

