

**IN THE SUPREME COURT OF SEYCHELLES**

**THE REPUBLIC**

**VERSUS  
JANET ANYANGO OCHIENG**

**Cri**

**minal Side No 40 of 2008**

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Miss. T. Micock for the Republic

Mr. J. Renaud for the Accused

**SENTENCE**

**Gaswaga J**

Ms. Janet Anyango Ochieng has been convicted of the offence of importing a controlled a Controlled Drug contrary to Section 3 as read with Section 26(1) (a) of the Misuse of Drugs Act of 1990 as amended by Act 14 of 1994 and punishable under Section 29 and the second schedule referred thereto in the Misuse of Drugs Act as amended by Act 14 of 1994. The particulars alleged that the accused on the 8<sup>th</sup> of May 2008 imported into Seychelles 265.8 grams of diamorphine. She has now tendered a guilty plea for the said offence thereby saving the precious time of the Court and will accordingly be credited for that.

There is no doubt that the offence herein is serious and rampant and has caused a public outcry in our Society. The plain and apparent object of the relevant laws is to prevent the danger to public health; especially with regard to that of the young and therefore future generation, and to guard Society against the social evils which an uncontrolled use and importation of or traffic in illegal drugs is bound to generate. A

minimum sentence of 10 years is prescribed while the maximum is set at 30 years.

In determining a suitable sentence herein I have considered all the relevant factors including the nature of offence and class of drug involved (A), as well as the personal circumstances of the offender: that she is a – 23 – year old female Kenyan national who used to sell fruits in Nairobi for a living and has one child aged 3, that both of her parents died leaving her with 3 siblings to look after one of them, the youngest is disabled, that she knew very well what she was doing when a lady invited her to swallow capsules containing drugs and was to travel in that state to Seychelles, and that she was desperate for money and now regrets the incident. As submitted by Mr. Renaud, It will be noted that although the giver of the said drugs in Nairobi and the intended recipients thereof in Seychelles are not here in Court today, the law dictates that Ms Janet Ochieng has to be punished for the part she played in all this transaction!

I have also taken into account several sentences in similar or related cases passed by the Supreme Court and subsequently the Court of Appeal. In the recent case of **R v Nitin Redekar Criminal Side No. 21 of 2007** who was arrested while importing close to 2 kgs of cannabis (class B drug) the Supreme Court imposed a 13 year sentence. The same Court meted out a sentence of 14 years to the accused, (**In R v. Amigbade & Ors Cr. No 73 of 2007**) a Nigerian national arrested at the Seychelles International Airport while importing a kilogram of heroin (Class A drug). A jail term of 14 years was handed down to **Randy Florine Criminal Case No. 26 of 2008**, a Seychellois arrested with 310.2 gms of cannabis resin (Class B). For **Terence Alphonse (Criminal Case No. 47 of 2006)** who was trafficking in 4.9 grams of heroin (diamorphine) and was also in possession of a hand rolled cigarette

containing cannabis resin jails term of 8 and 10 years were handed down. The same Court sentenced **Alcide Bouchereau (Criminal No. 61 of 2007)** to 8 years imprisonment when he was convicted for trafficking in 153.3 grams of cannabis and another 8 years for cultivation of 85 genus plants of cannabis. The sentences were to run concurrently. All these cases went through a full blown trial.

Having considered all the above and the fact that the accused herein is a first offender who has pleaded guilty I feel the suitable sentence for her should be 10 years in prison. The period spend on remand should be counted as part of this sentence.

I accordingly sentence you.

Right of appeal explained

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**D. GASWAGA**

**JUDGE**

Dated this 26<sup>th</sup> day of September, 2008.