

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 35/2015

[2016] SCSC155

THE REPUBLIC

versus

TERRENCE DAVIS ALPHONSE

Anse Boileau, Mahe

First Accused

And

CHARLES OGILVY VENTIGADOO

Belonie, Mahe
Second Accused

Heard: 17 February 2016

Counsel: Mr Hermanth Kumar, Assistant State Counsel for the Republic
Mr Anthony Juliette for the Accused

Delivered: 9 March 2016

SENTENCE

Mckee J

[1] The First and Second Accused were originally charged jointly with the substantive charge of trafficking in a controlled drug. They first appeared in the Supreme Court on 29th July 2014 and were remanded in custody. On 30th October 2014 both Accused pleaded Not Guilty to the charge, remained in custody and the matter was set for trial. On 29th January 2016 the Prosecution filed an amended charge of simple possession and hence the formal charge faced by both Accused was as follows:

- [2] Possession of a controlled drug contrary to section 6 of the Misuse of Drugs Act Cap 133 and read with section 26[1][a] of the said Act and punishable under section 29[1] and the Second Schedule of the said Act.
- [3] The Particulars of the Offence were as follows: Terrence Davis Alphonse and Charles Ogilvy Ventigadoo, on 20th July 2014 at Belonie, Mahe, were found in possession of controlled drugs having a net total weight of 6.76 grams which contained 2.97 grams of pure heroin [diamorphine].
- [4] On 17th February 2016 the two Accused again appeared in court and represented by Counsel. The amended charge was read and explained to the Accused in English and in Creole. Each of the First and Second Accused pleaded guilty to the charge. The Brief Facts were read to the Accused and each Accused admitted the Brief Facts. Thereafter I convicted each of the Accused of the charge. I was advised that each Accused had been a man of clear record up to the date of his conviction. Defence Counsel mitigated fully on behalf of each Accused and referred to the range of sentences in similar cases, which cases he produced to the court. The matter was adjourned for sentence.
- [5] In considering sentence I took into account the nature of the amended charge, namely simple possession, the pleas of guilty, the Brief Facts, the pleas in mitigation, the previous clear records of the Accused and the cases referred to by Counsel. While the drug involved was a “hard drug” the quantity was not high; there was only one packet. I take as a starting point a period of four years imprisonment and give each Accused a twenty five per cent discount for the pleas of Guilty. Accordingly each Accused is sentenced to three years imprisonment. Time spent in custody will be taken into account when the ultimate dates of release from prison are calculated.

Signed, dated and delivered at Ile du Port on 9 March 2016.

C Mckee
Judge of the Supreme Court