

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 6/2015

[2016] SCSC 196

THE REPUBLIC

versus

DAVIS DIDON

Accused

Heard: 10 March 2016
Counsel: Miss Brigitte Confait, State Counsel for the Republic
Mr N. Gabriel for the Accused

Delivered: 24 March 2016

SENTENCE

McKee J

- [1] The Accused, Davis Didon, first appeared in the Supreme Court on 2nd February 2015 facing two charges: [One] Possession of a Controlled Drug in relation to twelve cannabis plants and [Two] Trafficking in a Controlled Drug in relation to 179.4 grams of cannabis. He was remanded in custody and continued to be so remanded until today. On 13th March 2015 he pleaded Not Guilty to both charges.
- [2] On 10th March 2016, the Accused again appeared before the Court. On this day the Prosecution added an additional and alternative charge to the indictment and the charges faced by the Accused were as follows:

Count 1

Statement of Offence

Possession of a controlled drug contrary to section 6[a] as read with section 26[1][a] of the Misuse of Drugs Act as amended by Act 14 of 1994 and punishable under section 29 read with the Second Schedule of the said Act.

Particulars of Offence

Davis Didon, on 16th January 2015, at Pointe Au Sel, Mahe, Seychelles was found in possession of a controlled drug, namely, 12 plants of cannabis.

Count 2

Statement of Offence

Trafficking in a Controlled Drug contrary to section 5 as read with section 14[1][c] and 26[1][a] of the Misuse of Drugs Act as amended by Act 3 of 2014 and punishable under section 29 as read with the Second Schedule of the said Act.

Particulars of the Offence

Davis Didon on 16th January 2015, at Pointe Au Sel, Mahe, Seychelles, was trafficking in a controlled drug by virtue of having been found in possession of 179.4 grams of cannabis, which gives rise to the rebuttable presumption of trafficking in a controlled drug.

Count 3 [in the alternative to Count2]

Statement of Offence

Possession of a Controlled Drug contrary to section 6[a] as read with section 26[1][a] of the Misuse of Drugs Act as amended by Act 14 of 1994 and punishable under section 29 as read with the Second Schedule of the said Act.

Particulars of Offence

Davis Didon, on 16th January 2015, at Pointe Au Sel, Mahe, Seychelles, was found in possession of a controlled drug, namely, 179.4 grams of cannabis.

- [3] The three charges were read and explained to the Accused in English and in Creole. The Accused pleaded Guilty to Count 1, Not Guilty to Count 2 and Guilty to Count 3. These pleas were acceptable to the Prosecution. The Brief Facts were read to the Accused in English and Creole and the Accused agreed the Brief Facts. Thereafter I found the Accused Guilty on his own plea in respect of Counts 1 and 3 and convicted him on Count 1 and Count 3. I was advised that the Accused had been a man of clear record prior to this date. Defence Counsel mitigated on behalf of the Accused and drew my attention to a number of cases to assist in sentencing.
- [4] In assessing sentence, I took into account the charges for which the Accused was convicted, namely charges of “simple possession”, the pleas of guilty, the circumstances of the case are recounted in the agreed Brief Facts, the mitigation advanced by Defence Counsel with cases referred to and the fact that prior to conviction the Accused had been a man of clear record.
- [5] In mitigation I was advised that the Accused was a single man and normally resided with his family. At the end of the day the only mitigating factor were the pleas of guilty tendered by the Accused. There are two charges and I make no further comment in respect of Count 1, the possession of twelve cannabis plants save that this is not an especially large number. I have considered fully the circumstances surrounding Count 3. The weight of cannabis found on the Accused was 179.4 grams. This is the equivalent of 6 ounces in the old measurement and it has to be borne in mind that eight ounces is equal to the one half pound measure. In these circumstances I find that the Accused was in possession of a sizable quantity of drugs. I take into account the latent risk factor and bear in mind that, with this quantity, there is a risk to society of the drugs finding their way into other hands apart from the offender’s. I give the Accused a twenty five percent discount in respect of both Counts in view of the pleas of guilty. I also keep in view that Cannabis is a Class “B” drug.

- [6]** In respect of Count 1, if this matter had gone to full trial, a sentence of sixteen months imprisonment would have been appropriate. I give the Accused a twenty five per cent discount in view of his plea and sentence the Accused in respect of Count 1 to 12 months imprisonment.
- [7]** In respect of Count 3 I take all the above-mentioned factors into account. I take as a starting point a term of four years imprisonment and I give the Accused a discount of twenty five percent in view of his plea of guilty. Accordingly the Accused is sentenced to three years imprisonment in respect of Count 3.
- [8]** The sentences shall be concurrent so the total term of imprisonment is three years. Time spent in custody shall be taken into account when the ultimate date of release from prison is calculated.

Signed, dated and delivered at Ile du Port on 24 March 2016

C McKee
Judge of the Supreme Court