

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 75/2017

[2018] SCSC 770

THE REPUBLIC

versus

MICHAEL OLIVER JULIENNE

Accused

Heard: 25 June 2018
Counsel: Mr. Kumar, State Counsel for the Republic
Mr. N. Gabriel for the accused
Delivered: 19 July 2018

JUDGMENT

Vidot J

- [1] The Accused was charged with and pleaded guilty to the following offences;
- [2] Following his conviction, Counsel for the Accused invited Court to call for a probation report before passing sentence. The Accused is a first time offender. The probation reveals that the Accused is unemployed since the last 3 years. He is suffering from lower back pain which require regular physiotherapy sessions. Before that he had been in steady full time employment. He is cohabiting with and taking care of his mother who is asthmatic. The Accused stated that he was drug dependant, but when interviewed by Probation Officer

who compiled the report, he stated that he committed the offences because he needed cash. The Social Services recommended a noncustodial sentence and the imposition of a fine and drug rehabilitation programme.

[3] Counsel for Accused further mitigated on his behalf. He submitted that the Accused who is 45 years old is a father of a 15 year old child. He has pleaded guilty thereby saving the court's precious time and has also shown remorse. He added that his client co-operated with police when apprehended and assisted with investigation. He reiterated the medical condition of the Accused and produced a medical report which confirmed that the Accused suffers from spondylosis, thus the back problem.

[4] I have given due consideration of submission made in mitigation by Counsel for the Accused. In particular, I take into account that the Accused pleaded guilty and thereby saved the previous time of the court and thereby showing remorse for his action. I also considered that the Accused is a father and of his medical conditions.

[5] I have also considered that in meting out sentence, the Court has to bear in mind that classic principle of sentencing is deterrence, prevention, rehabilitation, reformation and retribution; see **Lawrence v Republic [1990]SLR 47**. I have furthermore taken into account the principle of proportionality and totality of sentence.

[6] I note in particular the amount of drugs involved and the medical condition of the Accused. I also note that he was trafficking the drugs not due to his alleged dependency on the same but the fact that he needed cash. I take into account the magnitude of drug epidemic prevailing in Seychelles and that there is urgent need to prevent trafficking in the same.

[7] I find that in the circumstances a custodial will be appropriate. Therefore, I sentence the Accused as follows;

Count 1; 5 years imprisonment

Count 2; 3 months imprisonment

Both sentences shall run concurrently and the Accused shall be entitled to remission on the sentences.

[8] I further make an Order that the Accused is placed on drug rehabilitation programme.

[9] The Accused may of Appeal against this sentence within 30 days from today

Signed, dated and delivered at Ile du Port on 19 July 2018

A handwritten signature in black ink, appearing to read 'M Vidot', written over a horizontal line.

M Vidot

Judge of the Supreme Court