

SUPREME COURT OF SEYCHELLES

Reportable
[2019] SCSC 135
CO15/2018

In the matter between:

THE REPUBLIC
(rep. by Brigitte Confait)

Republic

and

ELVIS D’UNIENVILLE
(rep. by Alexia Amesbury)

1st Accused

DWEN CRISPIN
(rep. by Nichol Gabriel)

2nd Accused

Before:	Burhan J
Heard:	12 November 2018 and 11 February 2019
Delivered:	25 February 2019

SENTENCE

BURHAN J

- [1] The 1st convict Elvis D’ Unienville pleaded guilty to the charge of being in possession of a quantity of 0.14 grams of Cannabis Resin.
- [2] The 2nd convict Dwen Crispin pleaded guilty to the charge of Trafficking in a quantity 59.8 (pure quantity 24.9) grams of Heroin.
- [3] I have considered the plea in mitigation made by Learned Counsel Mrs. Amesbury on behalf of the 1st convict. She stated that the 1st convict had been in remand for a lengthy period of time and moves that a non-custodial term be given to the convict for the injustice he has suffered.

- [4] I have considered the facts and at the very outset, I wish to correct Learned Counsel in that the 1st convict Elvis D'Unienville had been on bail in case CO 40/2017 for the offence of trafficking in a quantity of 15.73 (pure quantity 8.2) grams of Heroin and 102.76 (pure 55.44) grams of Heroin when he committed another similar offence in this case CO 15/2018, thereby breaching his bail conditions. It was for breach of bail conditions that the 1st convict Elvis D'Unienville was remanded. Subsequently on a plea bargain, the Hon Attorney General reduced charges against the convict Elvis D'Unienville in this case and he pleaded guilty before this court on the 11th November 2018. In case CO 47/2017 too he pleaded guilty to the lesser charge and was sentenced on the 8th of October 2018 by this Court, to a term of 3 years imprisonment refer **[2018] SCSC 892 The Republic v Elvis D'Unienville.**
- [5] I will take notice of the fact that this Court having sentenced the convict Elvis D'Unienville to a term of 3 years imprisonment, cannot therefore consider him to be a first offender. Considering the fact he has a previous conviction of a similar offence and the facts relevant to this instant case i.e. that the amended charge filed is in respect of a Class B controlled drug and the quantity involved is only 0.14 grams, I sentence him to a fine of SR 1500/-. In default of payment of fine, I impose a term of 1 month imprisonment, to run consecutive to the term he is serving in case CO 47/2017.
- [6] I have also considered the plea in mitigation made by Mr. Gabriel in respect of the 2nd convict Dwen Crispin. Mr. Gabriel informed Court that the convict had pleaded guilty at the very first instance without proceeding to trial thereby expressing remorse and regret and expecting the leniency of Court. The convict is 22 years of age. He further submitted in mitigation that the total Heroin found in possession of his client was 59.8 grams and the pure quantity was only 24.9 grams. There are no aggravated circumstances as the quantity was below 250 grams.
- [7] I have further considered the facts contained in the probation report. The 1st convict is the only child from his mother and was a student of the Seychelles Tourism Academy and was first employed as a Barman at the Indian Ocean Lodge in Praslin. He also would

perform dancing shows at hotels with his mother. It appears from his probation report that medically he is in good health except he has a skin problem under his feet.

[8] I have considered the very young age of the convict, the fact that he has pleaded guilty without proceeding to trial and the fact that he is a first offender. Even though the charge is of a very serious nature, I do not wish to incarcerate him for a long period of time as according to the probation report he seems to have learnt his lesson and an opportunity must be given to him to reform himself.

[9] The indicative minimum term of imprisonment for such an offence is 20 years. He is warned that Court has the discretion of imposing such a term, however considering his young age and the fact that he is a first offender and has pleaded guilty at the first instance, thereby expressing remorse and regret and expecting leniency and his undertaking given to the probation officer that he has learnt his lesson, I proceed to sentence him to a term of 3 years imprisonment.

[10] Time spent in remand to Court towards sentence. I also make order that as no aggravating circumstances exist both convicts are entitled to remission. I will not impose a fine on the 2nd convict Dwen Crispin as this would be a further burden on his mother and father.

Signed, dated and delivered at Ile du Port on 25 February 2019

Burhan J