

SUPREME COURT OF SEYCHELLES

Reportable
[2019] SCSC 25
CO 73/2018

In the matter between:

THE REPUBLIC
(rep. by Cythra Morel)

Prosecution

and

DANIEL BRIGILIA
(rep. by Anthony Juliette)

Accused

Before:	Burhan J
Heard:	05 December 2019
Delivered:	20 th January 2020

SENTENCE

BURHAN J

- [1] The convict Daniel Brigilia pleaded guilty and was convicted of the following charges:
- a) Possession with intent to traffic in a controlled drug namely 624.5 grams of Cannabis
 - b) Possession with intent to traffic in a controlled drug namely 21.72 grams of Cannabis Resin
 - c) Possession with intent to traffic in a controlled drug namely 11.71 grams of Methylenedioxyamphetamine

- [2] It is to be borne in mind that the three controlled drugs set out in Counts 1 to 3 are classified as Class B drugs in Schedule 1 Part II of the Misuse of Drugs Act 2016.
- [3] At the request of learned Counsel for the convict Mr. Tony Juliette, a probation report was called and thereafter learned Counsel Mr. Juliette, made a plea in mitigation on his behalf. I have considered the facts contained in the probation report and the plea in mitigation made by learned Counsel. The convict according to the report is 27 years of age. The convict has worked in several hotels as a room attendant, driver and butler. At present he is employed as a tour guide.
- [4] On the facts before Court, I am satisfied that the convict has expressed remorse and regret at the incident by pleading guilty, thereby expecting leniency from Court. He is a first offender. The probation report refers to the fact that the convict has expressed remorse during his interview with the probation and the convict admitted being heavily drug dependent on Cannabis and Ecstasy. According to the facts contained in the report, the convict admits he is wrong and apologises for committing the said offence and that the controlled drugs found in his possession were not for commercial purposes but for his own personal use. Learned Counsel in mitigation relied on the probation report which recommended a suspended term and a fine be imposed, on the basis he was a first offender.
- [5] I have considered all the aforementioned factors in mitigation and the fact that the charges are in respect of a Class B controlled drug, the total quantity of Class B drug being 657.93 grams, inclusive of Cannabis 624.5, Cannabis Resin 21,72 and 11.71 grams of Methylenedioxymethamphetamine, all Class B drugs.
- [6] It is to be borne in mind that the charges are not in respect of mere possession but of a more serious nature, namely possession with intent to traffic. It would be pertinent at this stage, to state that the recommended sentence for trafficking in such a quantity of Class B drugs is 2 to 3 years imprisonment. However, having considered the facts in mitigation, the fact he is a first offender, the total quantity of controlled drug 657.93 and giving due consideration to his plea of guilt, which warrants a decrease in his recommended sentence, I proceed to sentence him as follows.

On Count 1 to twelve months imprisonment and a fine of SCR 10,000/ (ten thousand). In default of payment of fine a term of 3 months imprisonment.

On Count 2 to a fine of SCR 5000/- In default of payment of fine a term of 2 months imprisonment.

On Count 3 to a fine of SCR3000/-. In default of payment of fine a term 1 month imprisonment.

[7] I make further order that all default terms run consecutively, if the fines are not paid. Time spent in remand to count towards sentence. While serving his sentence of 12 months imprisonment, the convict is to attend a detox and drug rehabilitation program. The convict is entitled to remission at the discretion of the Superintendent of Prisons.

[8] Copy of this order to be served on Superintendent of Prisons.

Signed, dated and delivered at Ile du Port on 20th January 2020.


M Burhan J