

SUPREME COURT OF SEYCHELLES

Reportable

[2020] SCSC 94

CO71/2018

THE REPUBLIC

(rep. by Mr Joji John)

and

DAVE DAVID HERTEL

(rep. by Mr Nichol Gabriel)

Accused

Neutral Citation: Republic v *Hertel* (CO 71/2018) [2020] SCSC94 (10 February 2020)

Before: Govinden J

Summary:

Heard: 10 February 2020

Delivered: 10 February 2020

SENTENCE

GOVINDEN J

[1] The convict Dave David Hertel has been convicted on his own guilty plea, of one Count of possession of 5.89 grams of heroin (diamorphine) with purity of 3.53 grams with intent to traffic contrary to Section 91 of the Misuse of Drugs Act 2016, read with Section 19(1) (c) of the said Act and punishable under Section 71 read with the second Schedule of the said Act.

[2] Learned Counsel for the convict has moved this Court in mitigation to show leniency as the convict is 45 years and has two children. He submitted that the offence is not aggravated in nature and the Court should be minded not to pass a sentence of custodial imprisonment.

- [3] The Court has taken notice that the convict is a first time offender and he is remorseful, he has pleaded guilty and saved the precious time of the Court. The amount of controlled drug are on the very low side and the Learned Counsel has on that basis moved this Court not to impose a custodial sentence.
- [4] I have considered the submissions of Counsel in mitigation and all the mitigatory circumstances surrounding the charge to which he has pleaded guilty to.
- [5] Having done so I find that there are no aggravating factors which will require this Court to past a sentence of imprisonment.
- [6] And I therefore impose the following sentence on the Convicted person.
- (a) For committing the offence charged of possession of 5.89 grams of heroin (diamorphine) with intent to traffic I sentenced the Convict to one year of imprisonment suspended for 3 years.
 - (b) The convict should not commit any offences under the provision of the Misuse of Drugs Act 2016 during the currency of the suspended sentence.
 - (c) If he defaults on this condition he shall be sentenced for this suspended sentence.

Signed, dated and delivered at Ile du Port 10 February 2020

Govinden J