

SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC
CR 53/2019

In the matter between:

THE REPUBLIC
(*rep. by Ms. Almeida*)

and

ELIJAH HOAREAU
(*rep. by T. Juliette*)

Neutral Citation: *R v Hoareau* (CR 53/2019) [2020] SCSC 282 (15 May 2020)

Before: Burhan J

Summary: Sentence - Possession of a controlled drug contrary to section 8 of the Misuse of Drugs Act and punishable under the Second Schedule of the Misuse of Dugs Act.

Heard: 11 March 2020

Delivered: 15 May 2020

SENTENCE

BURHAN J

[1] The convict Elijah Hoareau was convicted of the following charges on his own plea of guilt.

Count 1

Possession of a controlled drug contrary to section 8 (1) of the Misuse of Drugs Act and punishable under the second Schedule of the Misuse of Dugs Act.

The particulars of the offence indicate that the controlled drug was cannabis herbal material having a net weight of 11.50 grams.

Count 3

Possession of a controlled drug contrary to section 8 of the Misuse of Drugs and punishable under the second Schedule of the Misuse of Drugs Act.

The particulars of the offence indicate that the controlled drug was 44.5 grams of cannabis herbal material having a net weight 44.5 grams.

- [2] At the request of learned Counsel for the defence a probation report was called. The probation report indicates that the convict is 20 years old. The convict has a Diploma in Computing and Information Technology from the University of Seychelles. He has been employed at the Department of Information and Communication Technology as a system and support officer. It appears after his arrest in respect of these offences he has resigned from this job on the 31st of December 2019 and is presently working with his father as a stain glass assistant to his father's business namely Ras Art Glass Company.
- [3] It is apparent from the probation report that the convict is an admitted drug user of cannabis and had no intention of trafficking in the said drug which was for his personal use. It is apparent from the report that he is another individual who believes that cannabis should be legalised.
- [4] The probation report has also reported that the convict is a first offender. It appears not only the parents of the convict but even his employer have described the convict in a positive manner. The probation report has correctly in the view of this Court recommended that a non-custodial term be given to the convict in the form of a suspended sentence.
- [5] In mitigation learned Counsel Mr. Juliette too relied on the facts stated in the probation report and further emphasised the fact that the convict was a first offender and had pleaded guilty at the first instance without wasting the time of Court. He moved that court treat the convict leniently.

[6] I have considered the facts contained in the plea in mitigation. The convict is a first offender and admittedly a drug user. He has pleaded guilty at the first instance thereby expressing remorse and regret and expecting leniency from court. I see no aggravating factors in this case.

[7] I have considered all the aforementioned facts and the recommendation in the probation report and having considered the fact that the recommended sentence for such offences does not indicate the imposition of a term of imprisonment for such offences, I proceed to sentence the convict Elijah Hoareau as follows:

- a. Count 1 to a fine of SCR 2500/= in default 3 months imprisonment.
- b. Count 3 to a term of three months imprisonment which is suspended for period of two years.

[8] Time spent in remand to count towards sentence.

Signed, dated and delivered at Ile du Port on 15 May 2020.

M Burhan J