

SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC 481
Cr S 78/2020

In the matter between

THE REPUBLIC
(rep. by Evelyn Almeida)

and

SAMUEL ANTOINE COUSIN
(rep. by Nichol Gabriel)

Neutral Citation: *R v Cousin* Cr S 78/20 [2020] SCSC 481 (24 July 2020)

Before: Twomey CJ

Summary: possession with intent to traffic – plea of guilty - 3.40 grams heroin – sentencing guidelines

Heard: 1 June -2 July 2020

Delivered: 24 July 2020

SENTENCE

The convict is sentenced to a term of one year’s imprisonment suspended for two years

TWOMEY CJ

[1] The convict pleaded guilty to a charge of trafficking in 5.07 grams of a substance with a heroin content of 3.4 grams of pure heroin, which gives rise to a presumption of having possessed the drug with intent to traffic the same.

[2] The facts of this case as articulated by Learned State Counsel, Ms. Almeida, are that on 22 July 2019, Officer Pierre Servina and other officers of the Anti-Narcotics Bureau (ANB) when conducting patrols in the vicinity of Petit Paris saw a group of men with the convict, who was well known, to them sitting on a rock with a carton box in front of him.

On top of the carton box was a black digital scale. When the convict saw the ANB officers, he dropped the scales and two pieces of cling film on the ground. The pieces of cling film, which contained a substance, were retrieved and the convict cautioned. The substance in the cling film was analysed and found to have a net weight of 5.07 grams with a purity of 3.47 grams of heroin.

- [3] The convict admitted the facts as outlined by the prosecution. Learned Defence Counsel, Mr. Gabriel, requested that a probation report be obtained in respect of the convict.
- [4] The report obtained states that the convict is 24 years old and with his aunt, his mother having passed away three years ago. He has worked as a casual labourer during the past five years. The convict stated that the drugs were for his personal use and that he is heavily dependent on heroin. He has stated that he is remorseful and would like the court to consider referring him to a drug rehabilitation programme. The report also notes that the accused has previously been engaged in a rehabilitation programme but that he has relapsed and remains dependent on heroin.
- [5] In a mitigation address, learned Defence Counsel submitted that the convict's plea of guilty has resulted in not wasting the court's precious time and he has pleaded for leniency.
- [6] The maximum penalty for the offence with which the Convict has been charged with is life imprisonment and/ or a fine of SCR750, 000 and the indicative minimum sentence where the offence is aggravated is 20 years' imprisonment.
- [7] I take into consideration the mitigation speech by learned counsel on behalf the convict. In I note that he is he has pleaded guilty, thereby expressing remorse and regret and has not wasted the court's precious time. He expects the mercy and leniency of the Court.
- [8] I also note that the agreed and adopted sentence guidelines for a quantity of more than 2 up to 10 grams of Class A drugs is two to five years of imprisonment.
- [9] In the circumstances and for the purpose of deterrence for similar offences by the convict, I sentence him to a term of a term of one year's imprisonment suspended for two years.

[10] The convict should not commit any offences under the provisions of the Misuse of Drugs Act 2016 during the currency of the suspended sentence or otherwise trigger the one-year sentence of imprisonment.

[11] The convict has the right of appeal against both conviction and sentence within thirty working days of this order.

Signed, dated and delivered at Ile du Port on 24 July 2020

Twomey CJ