

IN THE SUPREME COURT OF SEYCHELES

Not Reportable

[201.1.] SCSC .447
CR06/2021

REPUBLIC
(rep. by Esha Benoiton)

Prosecution

and

HUBERT NOURRICE
(rep. by Clifford Andre)

Accused

Neutral Citation *Republic v Hubert Nourrice* CR06/2016 [2021] SCSC .447. Delivered on
09 July 2021
Before: Vidot J
Summary Trafficking in controlled drug and Possession of Controlled drug, both Class
A drugs; Sentence
Heard: 19 April 2021
Delivered: 09 July 2021

SENTENCE

Vidot J

[1] The Accused has been charged with and pleaded guilty to the following offence;

Count 1

Statement of Offence

Trafficking in a controlled drug by virtue of being found in unlawful possession of a controlled drug namely heroin (diamorphine) with the intent to traffic, contrary to section 9(1) read with section 7(1) and section 19(1)(c) of the Misuse of Drugs Act, 2016 (Act 5

of 2016) and punishable under section 7(1) and the Second Schedule of the Misuse of Drugs Act.

Particulars of Offence

Hubert Moses Nourrice of Bel Ombre, Mahe, on the 25th October 2019, at Bel Ombre, Mahe was trafficking in a controlled drug by virtue of having been found in unlawful possession of the controlled drug, namely heroin (diamorphine) having a net weight of 10.86 grams containing a heroin purity of 4.78 grams, giving rise to the rebuttable presumption of having possessed the said controlled drug with the intent to traffic.

Count 2

Statement of Offence

Possession of a controlled drug, by virtue of being found in unlawful possession of the controlled drug, namely cocaine, contrary to section 8(1) of the Misuse of Drugs Act, 2016 and punishable under the Second Schedule of the said Act

Particular of Offence

Hubert Moses Nourrice of Bel Ombre, Mahe, on the 25th October 2019, at Bel Ombre, Mahe was in possession of a controlled drug, by virtue of having been found in unlawful possession of the controlled drug, namely cocaine, having a net weight of 2.59 grams, giving rise to the rebuttable presumption of having possessed the said controlled drug.

- [2] Before passing sentence the Accused requested for a probation report which request was granted. The report was received and served on Counsel for the Accused. The Accused is 20 years old who has worked at Kempinski Seychelles Resort, on a farm with his father and casual work on other farms. He comes from a broken home and this has had a negative impact on him. He recounted to the Probation Officer that he has been using cannabis in tea and cakes since was in crèche. He has since committing the offence not been using drugs and that he is on the methadone programme. He was before then a drug dependent person.

- [3] Mr. Andre, Counsel for the Accused endorsed the probation report and went on to mitigate by drawing attention to the fact that the Accused is still a very young man. He noted that the Accused is a first time offender He asked the Court to give due consideration to the special circumstances of the Accused who comes from a broken home and has moved to living with one parent, then to other without much guidance and discipline. Counsel also stated that the Accused being a young man should be granted the possibility to be a productive member of society.
- [4] When considering the appropriate sentence to be meted out, I take all mitigation and the probation report into consideration.
- [5] The Accused has pleaded guilty thereby showing remorse and thereby saving the precious time of the Court. In **R v Buffery 14 Cr. App. R. (S) 511CA**, Lord Taylor CJ stated that there was no absolute rule as to what the discount should be, but as general guidance, the Court believed that something of the order of one third would be an appropriate discount. **Blackstone's Criminal Practice (2012), paragraph E.12 p2148** provides that a guilty plea would in effect earn an accused a reduction in sentence as it saves time of the court and reduces considerable cost and in case of an early plea, saves inconvenience of witnesses to give evidence before Court, and therefore that *"reduction should be a proportion to the total sentence imposed calculated by references in which the guilty plea was indicated, especially at what stage in the proceedings."*
- [6] However, in passing sentence I take note that on one occasion the Accused showed disrespect to the Judge and the Court. This is wholly unacceptable and should not be condoned. ;
- [7] I therefore proceed to convict the Accused as follows;
- (i) On count No. 1 to a term of 22 months imprisonment
 - (ii) On Count No. 2 to 15 months imprisonment
- [8] The sentences are to run concurrently. Any time spent on remand in this case shall be deducted from the sentence.

[9] If unsatisfied with this sentence, the Accused may appeal against the within 30 working days from today.

Signed, dated and delivered at Ile du Port on 09 July 2021

A handwritten signature in blue ink, appearing to read 'M Vidot J', is written over a horizontal blue line.

M Vidot J

