

IN THE SUPREME COURT OF SEYCHELLES

Reportable

[2021] SCSC 951

CR 68/2021

REPUBLIC

(rep. by Hemanth Kumar)

Prosecution

And

OZUBAY IFENDI

(rep. by Clifford Andre)

Accused

Neutral Citation: *Republic v Ozubay Ifendi (CR68/2021)* [2021] SCSC 951 (03 December 2021)

Summary: Importation of a control drug, namely cocaine contrary to and punishable to section 5 of MODA 2016

Before: Vidot J

Heard:

Delivered: 03rd December 2021

SENTENCE

VIDOT J

[1] Izubay Ifendi was charged with and pleaded guilty to one count of importation of a controlled drug, namely cocaine contrary to section 5 of Misuse of Drugs Act. He was accordingly convicted of the charge.

[2] The particulars of the offence are that on the 14th June 2021, the Accused who is a Ghana National, imported into Seychelles controlled drugs, which was analysed and found to be

cocaine having a total weight of 701.98 grams with a purity content of 548.07 grams. The drugs were ingested in the form of pellets. He was apprehended by Police Officers.

- [3] The Accused who is a first time offender decided to call for a probation report. That request was acceded to and a report was prepared and presented to Court.
- [4] Counsel for the accused prayed for leniency on his client. He noted that his client pleaded guilty thereby saving the Court's precious time. The accused is 61 years old and married to two wives and 6 children, all of whom but one are underage. Counsel submitted that his client is remorseful.
- [5] Counsel further claim that his client was unaware of what he was carrying. He was asked by someone to carry the items to Seychelles where he had been booked for a working visit to do with evaluating property at the Four Season Resort. To suggest that the accused was unaware that he was carrying drugs which he had ingested in an affront to human intelligence. Nonetheless, I note that Counsel's mitigation on that matter is totally contrary to what the accused recounted to the Probation Officer. In the probation report, the accused had reported that he was in financial difficulties when someone approached him about a job in Seychelles. The person whose job he was to undertake, had come to him just before he left and had given him the drugs to import into Seychelles. He said he refused, but the person threatened to harm his family and therefore he felt defenceless and was left with no choice but to oblige that person's request. He knew he was to facilitate a drug transaction.
- [6] I shall in meting out sentence consider mitigation made by Counsel and the probation report. The accused has also co-operated with the Police. Counsel, has also presented few authorities in support for a lenient sentence. He relies on Republic v Francis Ernesta & Ors CO22/2016 [2018] SCSC, Republic v Elvis D'unienville CO47/2017 [2018] SCSC 892, Republic v Emerenthia Holder [2019] SCSC 416 CR 46/2018, Republic v Marcos Da Siva Reis [2019] SCSC 1037, CO 37/2019 and Republic v Marcus Asman [2019] SCSC 582 CO15/2019.

- [7] A guilty plea earns an accused credit as far as sentenced is concerned. **Blackstone's Criminal Practice (2012), paragraph E.12 p2148**, states 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, also saves inconvenience of victims and witnesses to give evidence before court, and furthermore that a *“reduction should be a proportion to the total sentence imposed calculated by reference to the circumstances in which the guilty plea was indicated, in particular at what stage in the proceedings”* I shall take that into consideration when passing sentences.
- [8] Therefore, in the circumstances I sentenced the Accused to 6 years' imprisonment.
- [9] Time spent on remand shall be discounted toward the sentence.
- [10] If unsatisfied with this sentence the Accused may appeal against the same within 30 working days from today.

Signed, dated and delivered at Ile du Port / Victoria on 03 December 2021

M Vidot J