

IN THE SUPREME COURT OF SEYCHELLES

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**Reportable**  
[2022] SCSC 1135  
CR80 /2021

In the matter between

**THE REPUBLIC**  
(rep. by Corine Rose)

**Prosecution**

and

**JEFFREY HOAREAU**  
(rep. by Joel Camille)

**Accused**

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**Neutral Citation** *The Republic v Jeffrey Hoareau* (CR80/2021) SCSC 1135... delivered on  
December 2022  
**Before:** Vidot J  
**Heard:** 27<sup>th</sup> September 2022  
**Delivered:** 09 December 2022

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**SENTENCE**

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**VIDOT J**

[1] The Accused stands charged with and pleaded guilty to following offences;

Count 1

Statement of Offence

Trafficking in a controlled drug by means of being found in unlawful possession of a controlled drug with intent to traffic, contrary to section 9 (1) of the Misuse of Drugs Act, 2016, read with section 19(1)(c) and punishable under section 7(1) read with the Second Schedule of the said Act.

### Particulars of Offence

Jeffrey Pierre Hoareau, resident of Beau Vallon, Mahe, On 13<sup>th</sup> July 2021, at the Beau Vallon Petrol Station, Mahe, was found trafficking in a controlled drug, namely heroin (diamorphine) with a total net weight of 14.96 grams with a total heroin (diamorphine) content of 7.33 grams which give rise to a rebuttable presumption of having possession of the said controlled drug with intent to traffic.

Count 2

### Statement of Offence

Trafficking in a controlled drug by means of being found in unlawful possession of a controlled drug with intent to traffic, contrary to section 9 (1) of the Misuse of Drugs Act, 2016, read with section 19(1)(c) and punishable under section 7(1) read with the Second Schedule of the said Act.

### Particulars of Offence

Jeffrey Pierre Hoareau, resident of Beau Vallon, Mahe, On 13<sup>th</sup> July 2021, at the Beau Vallon, Mahe was found trafficking in a controlled drug, namely heroin (diamorphine) with a total net weight of 47.79 grams with a total heroin (diamorphine) content of 24.21 grams which give rise to a rebuttable presumption of having possession of the said controlled drug with intent to traffic.

- [2] After the facts were read out by the Prosecution and admitted by the Accused, the Court accordingly convicted the Accused who is a first time offender. The Accused prayed to Court for a probation (pre-sentence) report. The demand was acquiesced to. A copy of the Report was made available to the Defence. Counsel for the Accused then proceeded to make submission in mitigation on behalf of the Accused. The submission was in part a repeat of the report. I shall when considering the appropriate sentence to mete out give due consideration to both the report and submissions in mitigation.
- [3] Mr. Camille, Counsel for the Accused pleaded for leniency and pray that Court imposes a non-custodial sentence. He submitted that the Accused who is a first time offender

pleaded guilty, therefore savings the Court's precious time and showing remorse. The Accused also apologised for the offences committed. Indeed, a guilty plea should earn the Accused credit as far as sentence is concerned. **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 the case of an early plea, saves inconvenience of witness 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 of the proceeding.*" Section 49 of the Misuse of Drugs Act lists mitigating factors that will accord an accused a reduction in sentence and these include "*admission of the charge through a guilty*" plea and the fact that "*no person was ..... directly harmed by the offence*". It also provides that an offender's acceptance of responsibility for the harm and potential harm associated with the offence and "*the absence of prior conviction*" as such mitigating factors.

- [4] Mr. Camille noted that the accused is a drug dependent person who is currently on the methadone treatment programme and that he suffers certain impairments which is both physical and mental. He was a student of the School of the Exceptional Child and followed a training programme at the Rehabilitation Centre designed for youths of certain impairments. However, the accused has remained in steady employment. These will be pertinent consideration in meting out appropriate sentence. I find that considering his current condition, the accused could be vulnerable or susceptible to the use of drugs and therefore needs support behind him. This Court ought to consider whether a prison term will be an appropriate sentence for the accused.
- [5] The accused is 38 years old and the father of a 14 year old daughter.
- [6] I appreciate that in meting out sentence, Courts have to bear in mind that the classic principle of sentencing is deterrence, prevention, rehabilitation, reformation and retribution; see **Lawrence v Republic [1990] SLR 47**. I shall also take into consideration the principle of proportionality and totality of sentence. Mr. Camille refers to **R v Joubert & Ors CR70/21** as authority for a lenient sentence. In that case, which involves

almost the same quantity of drugs, one accused received a prison term as there were aggravating factors that warrant such term of imprisonment whilst another received a 1 year and 6 months suspended sentence. I also take into account the case of **R v Marcus Dugasse CR 26 of 2020** whereby the accused received inter alia suspended sentences.

[7] After, considering all submission in mitigation and the probation (pre-sentence) report, I sentence the Accused as follows.

- i. Count 1, I sentence the accused to a term imprisonment suspended for 6 months suspended for 1 year and 6 months and to a fine of SR2,500.00 payable within 3 months from today and in default to a term of 3 months imprisonment; and
- ii. Count 2, to a term of 1 year and 6 months imprisonment suspended for 3 years and a fine SR20,000 payable within 8 months from today and in default to 6 months imprisonment.

[8] 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 on 09 December 2022

  
M Vidot J