

IN THE SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC .16
CR83 /2019

In the matter between

THE REPUBLIC
(rep. by Luthina Monthy)

Prosecution

and

JOSHUA AUBREY TELEMAQUE
(rep. by Joshua Revera)

Accused

Neutral Citation *The Republic v Joshua Aubrey Telemaque* (CR83/2019) SCSC.....
delivered on 20 January 2023
Before: Vidot J
Heard: 12 January 2023
Delivered: 20 January 2023

SENTENCE

VIDOT J

[1] The Accused stands charged with two counts of controlled drugs related offence. The first count which the Accused pleaded not guilty to, is Trafficking in a controlled drug contrary to section 7(1) (a), read with section 2 and section 23 of the Misuse of drugs Act and punishable under section 7(1) read with the Second Schedule of the said Act. The Accused pleaded guilty to count 2 which was in alternative to count 1 which is as follows;

Count 2

Statement of Offence

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

Particulars of Offence

Joshua Aubrey Telemaque, aged 30 years, landscaper of Anse Boileau, Mahe, on the 39th day of May 2019 was found in possession of a controlled drug, namely cannabis herbal material having a total net weight of 64.0 grams, by driving a vehicle bearing registration number S14478 at Grand Anse, Mahe, which gives rise to a rebuttable presumption of having possessed the said controlled drug with intent to traffic in the said controlled drug.

- [2] The facts were relayed by the Prosecution and admitted by the Accused. He was convicted accordingly. The Prosecution then moved court to withdraw the 1st Count in terms with section 65(a) of the Criminal Procedure Code. The application was granted.
- [3] In mitigation, Counsel for the Accused pleaded to Court to show leniency to the Accused, especially since he has pleaded guilty, thereby showing remorse and accepted responsibility for the offence committed. The Accused who is 33 years old is married with three minor children. He is in full time employment as a landscaper and earns a gross salary of SR10,400.00, out of which he is paying a housing loan of SR3000.00 and maintenance of his children. Counsel pleaded that this Court imposes a non-custodial sentence on the Accused.
- [4] The Accused has pleaded guilty and shown remorse. A guilty plea saves the court's precious time and therefore an accused should earn credit for that. Section 49 of the Misuse of Drugs Act, lists the Accused admission of the truth of the charge through a guilty plea, particularly an early guilty plea as a mitigating factor for a reduction in sentence. By pleading guilty early the Accused has reduced considerable court costs and save the inconvenience of witnesses having to give evidence before Court. **Blackstone's Criminal Practice (2012), paragraph E12 p2148** provides that a guilty plea would in

effect earn an accused a reduction in sentence and that "*reduction should be a proportion of the total sentence imposed calculated by references in which the guilty plea was indicated, especially at what stage of proceedings.*"

- [5] Section 49 of MODA further provides that an accused's acceptance of responsibility for the harm or potential harm associated with the offence, the absence of any commercial element in the offence and the absence of prior convictions as other mitigating factors. Such factors are present in this case.
- [6] However, this Court remains conscious that the importation, cultivation, trafficking and use drugs remains a colossal problem for Seychelles and despite efforts to eradicate or at least curb such problem remains a challenge that is far from being won.
- [7] I have appreciated that in meeting 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 feel that in this case emphasis should be placed on deterrence. I shall also take into consideration the principle of proportionality of sentence.
- [8] In the circumstances, I convict the Accused 6 months imprisonment and a fine of SR18,000.00 payable within 6 months of this sentence and in default to 4 months imprisonment.
- [9] The term of imprisonment shall be suspended for two (2) years.
- [10] If unsatisfied with this sentence, the Accused has a right of appeal against the same within 30 working days from today.

Signed, dated and delivered at Ile du Port on 20 January 2023.



M Vidot J