

SUPREME COURT OF SEYCHELLES

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Reportable  
[2023] SCSC 672  
CO 57/2022

In the matter between:

**THE REPUBLIC**  
*(rep. by Ketlynn Marie)*

**Republic**

and

**EUGENE KONAN**  
*(rep. by Daniel Cesar)*

**Accused**

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**Neutral Citation:** *Republic v Konan* (CO 57/2022) [2023] SCSC 672 (11 September 2023).  
**Before:** Burhan J  
**Summary:** Sentence for Conspiracy to import controlled drug cocaine (pure quantity unknown).  
**Heard:** 07 August 2023  
**Delivered:** 11 September 2023

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**ORDER**

I proceed to sentence the convict Eugene Konan to a term of six years imprisonment on Count 2. Time spent in remand to count towards sentence. The convict is entitled to remission.

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**SENTENCE**

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**BURHAN J**

[1] The convict in this case was convicted on his own plea of guilt for the following alternative offence in the amended charge dated 15 March 2023:

## Count 2

*Agreeing with another person or persons to commit the offence of Importation of a controlled drug contrary to Section 16 (a) as read with Section 5 of the Misuse of Drugs Act, 2016 and punishable under Section 5 as read with the Second Schedule of the Misuse of Drugs Act, 2016.*

*Eugene Konan of Ivory Coast National, bearing passport 18AT52510 on or about the 25<sup>th</sup> November 2022 agreed with another person or persons unknown to the Republic to pursue a course of conduct that if pursued would necessarily amount to or involve the commission of an offence of importation of a controlled drugs namely cocaine in a 100 millilitres of amber liquid in a 1 litre black glass bottle of Double Black Whiskey on board the flight ET 879 coming from Addis Ababa.*

- [2] At the request of Mr Daniel Cesar who appeared for the convict, a probation report was called prior to sentencing the convict.
- [3] The probation reporting on the personal circumstances of the convict, informs Court that the convict is a National from Ivory Coast who is 39 years of age, married and the father of five children age between the ages of 6 months to 11 years and living in Nigeria. He has completed his secondary studies and studied as an apprentice for two years learning the trade of auto parts. He has thereafter been employed in the trading industry trading in auto parts and has his own private business.
- [4] It appears his version is he was attempting to help the owner of his apartment one Francis whose wife was in need of money for medical treatment. Francis had a brother in Seychelles who had volunteered to help out but as the passport of Francis had expired and the amount of money to be transferred was large he had wanted the convict to go to Seychelles and collect the money. The convict had agreed and Francis had wanted him to give a double black label whisky and some commodities to his brother. It is apparent from his version that in Ethiopia, he had left his baggage with an attendant and not in his room. On the way to Seychelles he had noticed that the whisky bottle was open. This was noticed by the customs in the Seychelles who informed the ANB and on testing found that the black

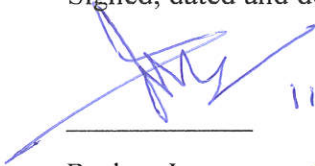
labelled bottle contained cocaine in liquid form. He admits he was in possession of the said bottle at the time of detection.

- [5] The convict expresses regret and remorse at what he has done and is a first offender. He has moved Court that a non-custodial term of imprisonment be imposed. The probation report refers to the fact that such offences are on the increase in the Seychelles and that such offences should be effectively dealt with to avoid repetition. It further states that the offence with which the convict has been charged “*remains lethal to our society and should be firmly dealt with by court*”. The probation report recommends that a custodial sentence be given.
- [6] In mitigation Mr Cesar stated that the convict was not in good health and that he has now joined a religious group in prison in order to reform himself. He also stated that there are negotiations going on for the convict to be deported after sentence. Learned Counsel further stated that he too relied on the recommendations made in the probation report.
- [7] In similar cases of importation of controlled Class A drugs into Seychelles *R v Petrus Vermuelen* [2022] SCSC 508 5, *R v Peris Munyao* [2021] SCSC 411, *R v Nakiganda* [2021] 864, *R v Nurdin Kamba* [2020] SCSC 24, *R v Elsie Vamba* [2022] SCSC 294 and *The Republic v German Dixon* [2023] SCSC 208 this Court imposed sentences ranging from five to six years imprisonment on persons being used as “mules” to bring in illegal drugs into Seychelles. In *R v Dos Anjos* [2023] SCSC 370 (25 May 2023) a sentence of 8 years imprisonment was imposed on the basis that the convict had a large quantity of Class A controlled drug, 3118.09 grams cocaine, pure content 1196.68 grams at the time of detection, in order to have a deterrent effect on future offenders.
- [8] In this instant case, I observe that the prosecution has been unable to give the quantity of pure cocaine as the cocaine had been in liquid form and analysis of cocaine in liquid form is not possible in the Seychelles. Therefore, this Court is unable to base its sentence on the pure quantity found in the possession of the convict. Be that as it may, conspiracy to import a Class A controlled drug in whatever form is a serious offence in itself, irrespective of the quantity and in the view of this Court it warrants the imposition of a custodial term of

imprisonment. I also see no serious medical condition the convict is suffering from other than skin related problems referred to in the probation report.

- [9] Giving due consideration to the seriousness of the offence and the facts set out in mitigation by learned Counsel for the convict and the fact that suitable deterrent punishment must be given to prevent repetition of such offences, I proceed to sentence the convict Eugene Konan to a term of six years imprisonment on Count 2.
- [10] As the prosecution has conceded that as they were unable to quantify the pure quantity of controlled drug imported there are no aggravating circumstances, I make further order that the convict is entitled to remission.
- [11] Time spent in remand to count towards sentence. Right of appeal against sentence explained.

Signed, dated and delivered at Ile du Port on 11 September 2023



11-09-2023.

Burhan J

