

IN THE SUPREME COURT OF SEYCHELLES

CriminalSide: CO57/2016

[2016] SCSC

THE REPUBLIC

versus

EDDY TONY D'UNIENVILLE
Accused

Heard: 09th November 2016
Counsel: Mr. K. Karunakaran, State Counsel for the Republic
Mrs. A. Amesbury for the accused
Delivered: 9 November 2016

SENTENCE

Vidot J

[1] The Accused has been charged with the following offences;

Count 1

Statement of Offence

Trafficking in a controlled drug , namely cannabis resin, contrary to section 9(1) read with section 9(1)(d)(ii), and punishable under section 7(1) and the second schedule of the Misuse of Drugs Act (Cap133)

Statement of Offence

Eddy Tony D'Unienville of Anse Possession, Praslin, on 29th July 2016 at around 0540 hours, at his residence was found in possession of a controlled drug namely cannabis resin having a total weight of 43.78 grams, giving rise to a rebuttable presumption of having possessed the said controlled substance with the intent to traffic in the said drug.

Count 2

Statement of Offence

Possession of a controlled drug, namely cannabis herbal material, contrary to section 8(1), and punishable under section 8(1) of the Second Schedule of the Misuse of Drug Act (Cap 133)

Particulars of Offence

Eddy Tony D'Unienville of Anse Possession, Praslin, on 29th July 2016 at around 0540 hours, at his residence was found in possession of a controlled drug, namely cannabis herbal material, having a total weight of 2.16 grams.

- [2] The Accused pleaded guilty to both counts and was accordingly convicted.
- [3] In mitigation, Mrs Amesbury, Counsel for the accused pleaded to Court to show leniency to her client. She submitted that her client is 49 years old and has 5 children of whom 4 are still dependent on him. He has pleaded guilty and has not wasted the precious time of the court. She drew attention to the quantity of drugs which she says is minimal. Mrs. Amesbury also urged that in the spirit of the Misuse of Drugs Act 2016, the accused who admits to being a user of drugs and not a trafficker, should be given a lenient sentence. The accused is also a first time offender.
- [4] I have given due consideration of the mitigation by Mrs. Amesbury. I also note that on the 1st Count the accused in admitting that he was a drug user, has rebutted the presumption of trafficking in the controlled drug. I shall treat him simply as having been

in possession of the controlled drug, which is cannabis resin with a total weight of 43.75 grams.

[5] I therefore proceed to sentenced the accused as follows;

- i. On count 1 the accused is sentenced to a fine of SR12,000/- which shall be paid on or before the 15th January 2017 and in default to a term of 6 months imprisonment.
- ii. On count 2, the accused is sentenced to a fine of SR2000/- which shall be paid on or before the 15th January 2017 and in default to a term of 2 months imprisonment.

[6] In the event that the accused fails to pay in full any of the fines imposed under both counts, the prison term shall automatically be activated and the accused shall serve the prison terms which shall run consecutive to one another.

Signed, dated and delivered at Ile du Port on 9 November 2016

M Vidot
Judge of the Supreme Court