

**IN THE GRAND COURT OF THE CAYMAN ISLANDS
HOLDEN AT GEORGE TOWN, GRAND CAYMAN**

BETWEEN: REGINA

(RESPONDENT)

AND: ERNEST ANTHONY BROWN

(APPELLANT)

APPEARANCES:

Sam Bulgin Esq. Acting Attorney General
John Furniss Esq. Counsel for Appellant

On the 7th November, 2000

ORAL REASONS FOR JUDGMENT

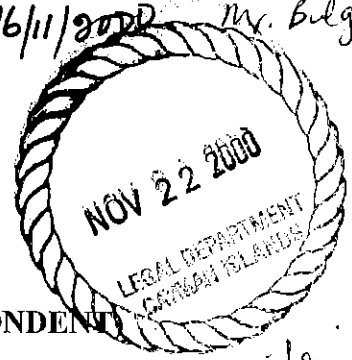
The Appellant, who is aged 35, was charged with importing 386 grams of powder cocaine and possession of a drug-related utensil, a small scale, both of which were found on him after he arrived in Grand Cayman by air from Jamaica, which is his home.

He pleaded not guilty to these charges, was convicted and was sentenced to 11 years imprisonment on the importation charge and one year for possession of the scale, the sentences to run consecutively, for a total of 12 years.

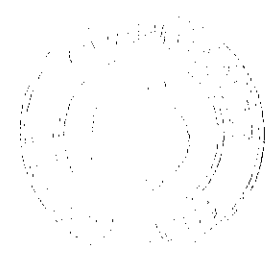
He appealed both conviction and sentence, but his conviction appeal was abandoned at the hearing. Only the sentence appeal has proceeded.

Mr. Furniss conceded on the Appellant's behalf that a sentence of 12 years falls within the "tariff" or "range" for importation of such a quantity of cocaine. But submitted that it

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is at the high end and that the case is unusual in that the sentence for utensil possession was made consecutive, rather than concurrent. In this regard the learned Magistrate may, perhaps, have taken into account the fact that there was not here a guilty plea, as has often been the case where somewhat lower sentences have been imposed. Certainly that would be a proper consideration, having in mind that admission of guilt may be evidence of the prospect of rehabilitation.

Mr. Furniss has submitted a letter from the Minister of the John Gray Memorial Church whose representatives are in Court today. Among other matters the Minister says:-

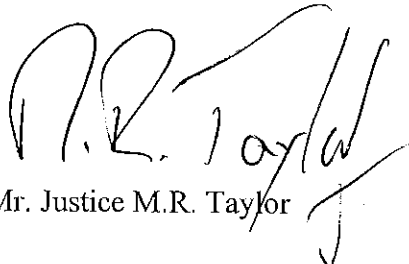
“Although I am not at liberty to discuss the details of counseling sessions, I feel comfortable in offering some general observations. Ernest appears to be someone working toward bettering himself and his ability to participate in community in healthy ways. He takes advantage of classes that are offered and is punctual and participatory in all counseling sessions. He grieves for his situation, articulates a deep longing to return to Jamaica and his family and functions properly within the prison, keeping well within the established boundaries. Perhaps his largest hope is for understanding, forgiveness and grace to begin life afresh.”

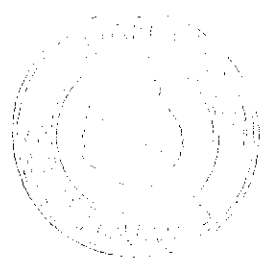
The learned Magistrate did not, of course, have the benefit of this letter when considering sentence, and particularly Mr. Brown's prospects of rehabilitation.

Notwithstanding that general deterrence must always be the principal concern in sentencing in these cases, having in mind the vulnerability of the Islands to the international scourge of the drug trade, yet there is room here in my view for consideration of evidence of redemption not available at trial.

I will allow the appeal and vary the sentence by directing that the one-year term for possession of the scale be served concurrently with the 11-year term for importation.

In all other respects the sentence is affirmed.


Mr. Justice M.R. Taylor



16th November, 2000