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BETWEEN

RUDLOFF

Appellant

1664

AND

POLICE

Respondent

Hearing: 4 December 1984

Counsel: Boyack for Appellant  
Jones for Respondent

Judgment: 4 December 1984

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(ORAL) JUDGMENT OF PRICHARD, J.

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This is an appeal in respect of a conviction entered in the District Court at Auckland on 21 August 1984 when the Appellant was convicted of the offence of possession of cannabis plant. For that offence he was fined the sum of \$150.

The evidence was that the Appellant had in his possession a small quantity - 1.7 grammes - of cannabis plant material. The submission made to me is that the situation could be met by a conditional discharge under s.42 of the Criminal Justice Act. The particular reason advanced by Mr Boyack is that the Appellant is a French national who, at the time of the offence, was in this country on a temporary permit which has since expired.

I am informed that he is now living in French Polynesia with a young woman (who is also a French national) and with whom he was living at the time of the offence. I am told that the conviction entered in the District Court makes it unlikely that the Appellant will be permitted to return to this country as a permanent resident. He wishes to do so because he has interests and connections with a bakery business in New Zealand.

The submission that the Appellant should be dealt with by way of a discharge under s.42 of the Criminal Justice Act was made on the same grounds in the Court below. It was rejected by the learned District Court Judge, who concluded his judgment by observing that the Appellant took the risk when he committed the offence and that he must now accept the consequences.

I am not prepared to interfere with the exercise of a discretion of this kind by the District Court Judge and accordingly this appeal is dismissed.

*Stanley P. J. D. S.*