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IN THE HIGH COURT OF NEW ZEALAND
HAMILTON REGISTRY

M.251/84

846

BETWEEN: MARK CHRISTOPHER BRADY
of Hamilton,
University Student

Appellant

A N D: THE POLICE

Respondent

Offence: Cultivating Cannabis (1)
Possession of Cannabis for supply (1)

Dealt With: 14 June 1984 At: Hamilton By: Green DCJ
Sentence: Imprisonment 1 month (on each charge)

Appeal Hearing: 18 July 1984

Oral Judgment: 18 July 1984

Counsel: P R Connell for appellant
R G Douch for respondent

Decision: APPEAL ALLOWED - in lieu of imprisonment
a total of 100 hours Community Service
substituted.

(ORAL) JUDGMENT OF GALLEN, J.

The appellant was convicted on a charge of cultivating cannabis, and a further charge of being in possession of cannabis for the purpose of supply. In his remarks on sentencing, the learned District Court Judge made the comment that drugs cause considerable amounts of misery and that he had a low opinion of those who descend to the grubby trade involved. I agree with his comments.

The community has indicated in no uncertain terms its dislike of persons who deal in drugs. It is a risky trade and people who take it up need to be aware of the risk

which it involves. In addition to that, the penalties which may be imposed under the legislation are heavy and are designed to discourage people from involvement. The Court of Appeal has indicated on more than one occasion that it is appropriate that heavy penalties should be imposed and that in considering matters of this kind personal circumstances have little relevance. As against that, it appears that on this occasion only one plant was involved. I note also that the appellant had got himself into a difficult financial position through generous actions - for which he was given credit by the learned District Court Judge.

The Probation Officer's report which has been supplied is a very good one indeed. In all the circumstances it appears to me that the recommendation contained in that report - that is, that the appellant should pay for the affront which he has given to the community by some recompense through Community Service - is an appropriate penalty to impose having regard to all the circumstances.

I therefore propose to allow the appeal to the extent that in my view the appellant should serve a total term of 100 hours Community Service. In respect of the first charge there will be a sentence of 50 hours Community Service; in respect of the second charge, 50 hours Community Service - the two penalties to be cumulative.

R. Galt J.

Solicitors:

O'Neill Allen & Co., Hamilton, for appellant
Crown Solicitor, Hamilton, for respondent