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COMMONWEALTH OF THE BAHAMAS
IN THE COURT OF APPEAL
MCCrApp & CAIS No. 266 of 2018

Barrington Darling

Appellant

vs

The Commissioner of Police

Respondent

(Extension of Time)

Before: The Hon Sir Michael Barnett, President, Kt
The Hon Mr Justice Jones, JA
The Hon Madam Justice Bethell, JA

Intended Appellant appeared Pro Se
Mr Vernal Collie, with Ms Janet Munnings,
Counsel for Intended Respondent

17 December 2020

1 The oral judgment of the court was delivered by

2 The Hon Sir Michael Barnett, P, Kt:

3 The intended appellant, Barrington Darling, was
4 charged with two counts under the Dangerous Drugs Act, one for
5 possession of marijuana and the other for possession of
6 cocaine, both with intent to supply. He pled guilty at the
7 earliest opportunity and he has no known antecedents.

8 The magistrate accepting the guilty plea, imposed a
9 sentence of four years on each count to run concurrently. The
10 four years were to run from the date of sentence, that is,
11 19th December, 2017, and did not take into account the fact
12 that the intended appellant had been in custody for a month
13 prior to the conviction and sentence.

14 The appeal is out of time by 10 months, and
15 therefore, this is an application for an extension of time.
16 The explanation given for the delay in appealing is that he
17 was unable to get the forms from the prison authorities. This
18 is the usual plea that we hear from inmates at the prison, and
19 to some extent we realize that there is some force in the
20 delay. But we are doubtful that he was unable to get it for
21 10 months, and therefore the length of the delay is somewhat
22 inordinate.

23 But the length of the delay is not the only issue
24 for the court. One of the issues for the court is the
25 prospects of success. Whilst the court is loath to interfere

1 with the exercise of a sentence by a magistrate unless it is
2 demonstrably clear that the sentence is unduly harsh, having
3 regard to the guilty plea at the earliest opportunity, and the
4 fact that there were no known antecedents of the intended
5 appellant, it seems to us that some discount should have been
6 given to the guilty plea and that the four years was unduly
7 harsh, and a more appropriate sentence would be the length of
8 three years. Further, the sentence ought to take into account
9 the period of incarceration prior to sentence, that is, the
10 time spent on remand should be taken into account.

11 Therefore, in the circumstances, we propose to allow
12 the appeal and reduce the sentence from four years beginning
13 on 19th December, 2017, to a term of three years and
14 one month, commencing from 17th November, 2017.

15 In the circumstances, the appellant will have served
16 his sentence, and unless he is being held for some other
17 reason, he should be released immediately.

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20 Dated this 17th day of December, 2020

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SIR MICHAEL BARNETT, P, Kt

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25 cn