Criminal
29/3/89

IN THE GRAND COURT OF THE CAYMAN ISLANDS

HOLDEN AT GEORGE TOWN, GRAND CAYMAN

CRIMINAL CASE NO. 3670-72/88

BETWEEN: DOROTHY LOHEMA KING — APPELLANT

AND: HON. ATTORNEY GENERAL ✓ — RESPONDENT

Mr. Furniss for the appellant
Ms. Dilbert for the Crown

J U D G M E N T

Dorothy Lohema King (the appellant) was convicted by the Summary Court of:

(1) possession of cocaine with intent to supply, contrary to section 3(1) (m) of the Misuse of Drugs Law and

(2) resisting a lawful search contrary to sections 5(1) and 12 of the Misuse of Drugs Law.

She was sentenced on the first charge to 3 years imprisonment and on the second charge to six months imprisonmemt to run concurrently. $159 found in her possession was also ordered to be forfeited. The appellant appeals against convictions and sentences.

On 17th October 1988 at about 2.50 pm. Dective Constables Rankine, Webster and Montague, of the Drugs Squad, went to the appellant's house off Shedden Road, George Town. They saw a man come from the direction of the house and followed him quickly. They saw the appellant standing at the door of her house with a brown paper bag in her hand. She entered the house and re-emerged without the bag. The appellant asked why they were harrassing the man. One of the officers told the appellant they would like to see what was in the brown bag. DC's Rankine and Webster followed the appellant into the house and she picked up the bag. She said there was nothing but money inside it but

one of the officers told her they suspected she had drugs in her possession. The appellant refused to let them have the bag so they had to force it from her. Inside the bag was found eleven small plastic packets containing a substance later analysed to be 13.2 grams of cocaine hydrochloride and the $159. After caution the appellant said the bag might have fallen from the ceiling.

When questioned under caution at the police station the appellant gave an explanation which largely corresponded with her evidence.

The appellant testified that she saw from her window the police chasing the man. She had money in her bosom but could not go outside with it so she put it in an old bag which was lying on the floor and threw it on top of a locker. There were things strewn around because men had been working on the roof after the hurricane. She was suspicious because the police had taken $508 from her grandson. She is 63 years old and does nothing except buy food and make cakes for people. She does not know how the drugs got there.

It is urged on behalf of the appellant that, whilst the appellant's possession of the brown paper bag has never been in dispute, her knowledge of the contents of the bag was never proved. Of course her knowledge of its contents can only be proved by inference. The learned Magistrate accepted the police officers' version of events that the appellant was at the door with the bag and took it inside. He was entitled to do so after seeing them, and the appellant, testify and after evaluating their evidence. To my mind he came to the correct conclusion.

The only reasonable inference to be drawn from her actions of returning to the house with the bag and then resisting the officers' search of the bag is that she knew it contained drugs. Her story that she put her money from the security of her bosom into a bag which was lying on the floor and which just happened to contain cocaine is so unlikely in the whole circumstances of this case, as to be incredible.

The amount of drugs so found, the fact that there is no suggestion that the appellant uses drugs and the circumstances of their discovery leads one to the inevitable conclusion that she intended to supply the drugs.

The appeal against conviction is dismissed.

I am urged to reduce sentence on the grounds of the appellant's age and medical condition. She has a history of sinus problems and high blood pressure and occasional phlebitis.

The learned Magistrate said he was reducing the sentence by half on account of these factors. I would look at it this way. A three year sentence would, all other things being equal, be an appropriate sentence for this offence. The appellant has a history of minor illness. She is not young. Those factors go to mitigate sentence. On the other hand she is well past the age of youthful folly and should be of an age when she is setting an example to the youth of Cayman instead of involving herself in a trade which is bent on its destruction. I consider the sentence is neither manifestly excessive nor wrong in principle.

The appeal against sentence is likewise dismissed.

D. Schofield 29th March 1989

Judge