

**Judgment 52/2006**

**William John Jones, Jamie Jones and John Robert  
Lawrence Ihle – Court of Appeal (Criminal Appeals  
351, 354 and 355) – 12 December 2006**

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**Importation of Class B and Class A drugs – appeals against sentence – appropriate starting point – guidelines in Turner (Royal Court, 5 December 2002) as respects amphetamines, considered - appeal allowed and sentence as respects the Class A importation reduced from 6 years 4 months to 4 years 6 months**

**IN THE COURT OF APPEAL IN THE ISLAND OF GUERNSEY**

**The** 12<sup>th</sup> day of December, 2006 before Sir de Vic Carey, presiding,  
Jonathan Philip Chadwick Sumption, Esquire, OBE, QC, and  
Peter David Smith, Esquire, QC.

**THE LAW OFFICERS OF THE CROWN**

**V**

**WILLIAM JOHN JONES**

**JAMIE JONES**

**JOHN ROBERT LAWRENCE IHLE**

In the appeals of each of the above  
Appellants from the sentences imposed on them by the Royal Court on 14<sup>th</sup> July 2006;

THE COURT, having on 11<sup>th</sup>  
December 2006 heard Advocates S. L. Brehaut, D. Domaille and S. Mallett, for the  
respective Appellants, and Crown Advocate G. D. McKerrell, thereon, this day GAVE  
JUDGMENT in the terms attached hereto and ALLOWED the appeal against sentence to  
the extent that the term of imprisonment imposed on all three Appellants in respect of the  
Second Count WAS REDUCED from six years and four months to four years and six  
months, to run from 25<sup>th</sup> January 2006.

**K.H.TOUGH**

Registrar of the Court of Appeal

**IN THE COURT OF APPEAL IN THE ISLAND OF GUERNSEY  
(CRIMINAL DIVISION)**

**Before Sir de Vic Carey (presiding) J.Sumption, Esq., OBE, QC, and P.Smith,  
Esq., QC**

**William John JONES**

**Jamie JONES &**

**John Robert Lawrence IHLE**

**Appellants**

**(Criminal Appeals 351,355 and 354)**

**CAREY, J.A.**

**The Offences and Sentences Imposed**

1. This is the Judgment of the Court on appeals against sentence for which leave to appeal was given by the single judge. These three Appellants appeared before Lieutenant-Bailiff Finch and 9 Jurats in the Royal Court on the 14 July last to be sentenced in respect of an Indictment containing two counts of being knowingly concerned in the fraudulent evasion of the prohibition on the importation of goods contrary to Section 77 (1)(b) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law 1972 as amended.
2. Both offences involved the importation of drugs of Class B, the first importation comprised two bars of Cannabis resin weighing in total 494 grams and the second a consignment of Amphetamine in powdered form weighing 217 grams. The Court, having considered the Appellants' individual circumstances and the way in which each have participated in these offences, concluded that they should be treated alike. The sentence imposed was on count 2, 6 years and 4 months and on count 1, 2 years concurrent to run from the date of arrest, namely 25 January 2006. No Order was made under the drug trafficking legislation, but forfeiture and destruction was ordered of the drugs and post sentence compulsory supervision was ordered in the normal way.

## **The Appellants**

3. All three Appellants come from the Holyhead area of North Wales. William Jones is 28 and has no previous convictions other than a caution in 2004 for possession of Cannabis. Jamie Jones is 25 years of age, he has a criminal record for minor offences which have been disposed of non-custodially, but more importantly, he does have a conviction of possession with intent to supply of both Class A and B drugs in 2002 which resulted in his being imprisoned for 9 months. Ihle has recently turned 23. He has a substantial criminal record, although only 1 for possession of a Class B drug. All three admit to problems arising out of the misuse of drugs. Neither of the Jones had the best of starts in life. Ihle is described as “a troubled young man”, his troubles appearing to start when his mother died when he was 10. None of the three appear to have any settled employment.

## **The Circumstances of the Offences**

4. It appears that all three travelled down from Holyhead to Portsmouth together. They then separated for the purpose of travelling to Guernsey. Ihle and Jamie Jones bought their tickets together under the name of Mr G Davies and Mr N Davies, an identity they continued to claim when they were asked to fill in landing cards at Guernsey. William Jones bought his ticket in his own name about 15 minutes later and they all travelled to Guernsey on the traditional ferry, arriving here in the afternoon. All three were stopped by the Customs and eventually William Jones was found to be carrying both consignments of a controlled drug. Initially, as has been recorded, Jamie Jones and Ihle maintained their false identities. They denied knowing William Jones, although they admitted that they had seen him on the boat. They came clean on their identities some 3 hours after their apprehension and admitted they were also from Holyhead, from which William John Jones admitted he had come. Subsequent forensic investigation clearly linked all three together and all three as has been recorded, pleaded guilty.

## **The Sentencing and Reasoning of the Royal Court**

5. Delivering the conclusions of himself and the Jurats, Lieutenant Bailiff Finch made reference to the judgment of this court in Richards and the previous guidelines issues by the Royal Court in Turner and by this court in the case of Grunte earlier this year. Reference was made to the sentencing bands for Cannabis resin as being between 3 to 6 years and for 217 grams of Amphetamine, 7 to 10 years. The court then went on to interpret paragraph 12 of the Richards judgment with regard to determining a total starting point. The court took a starting point of 3 years for the Cannabis resin and 8½ years for the Amphetamine powder considering the amount, and following the guidance of Richards where two drugs are imported, the starting point on the Amphetamine count was settled at 9½ years. The Royal Court did not propose differentiating between the Appellants and on the appeal no point has been taken that they should have been treated differently.
6. Turning to mitigation, the Royal Court referred to the material in the Probation Reports. The court drew attention to the depressing history of drug misuse, which seems to have blighted the lives of all three Appellants. It came to the conclusion that the appropriate discount from the starting point to take account of the guilty pleas and other mitigation was one third. The court was saying that in view of the forensic evidence that had been gathered by the Customs, a guilty plea by all three was inevitable.
7. The court concluded that the appropriate sentence on the second count should be 6 years and 4 months with 2 years concurrent on the first count.

## **Grounds of Appeal**

8. The Appellants' Advocates were, when seeking leave to appeal, faced with the decisions of the Court of Appeal in Richards and that of the Royal Court in Turner endorsed by Grunte. The main thrust of their grounds was that the starting point was in any event too high, that it was not appropriate to choose a starting point on the Amphetamine count halfway up the band and that the

band anyway should be adjusted to refer to a range of sentence, truly two thirds of the Class A bands, namely 6 years 8 months to 8 years 8 months.

9. An additional issue has been raised by the single judge when giving leave for this appeal, namely a possible disparity in the way offences involving Amphetamine in powdered form are treated, from those involving Amphetamine in tablet form. There has also been ventilated before us the issue of the degree of purity of the drugs.

### **The Representations of the Crown Advocate**

10. The single Judge in giving leave to Appeal invited the Crown to proffer any assistance it could to the plenary court concerning the sale value and usual strength of amphetamines, both in tablet and powder form in Guernsey.
11. We are most grateful to Mr McKerrell who has submitted as full a report as he could for our information and for the information of the appellants' counsel. He has been able to give us information as to the street value of amphetamines in powder form, both here and in the United Kingdom, but he has not been able to offer a view as to the tablet price. This may well of course be because amphetamines in tablet form are too often sold as Ecstasy to unwitting purchasers.
12. Without any information as to the value of the drug in tablet form, the suggestion of the single Judge that the bands are disproportionate in that the value of tablets included in a particular band is much higher than that of powder cannot be further pursued.
13. We have been assisted by Mr McKerrell's list of previous cases in the last four years and we have looked at those cases in greater detail.
14. The case of *Francis* in January 2002, involved importation by a courier of 445.96 grams of Amphetamine Sulphate powder at 80% purity. This case predated the guidance in *Richards* so the court there took a view that the starting-point should be calculated having regard to the value of the pure

Amphetamine involved (in that case 260 grams). A starting point of 8 years for future cases of such importations would be appropriate.

15. Turner involved an importation of 292 tablets at 1.9 % purity. They also contained a trace of MDMA giving support to the idea that they might have been intended to be marketed as Ecstasy. A value of £10/£15 per tablet was given to the Court and the Court in giving the guidelines to which have reference has been made chose the starting-point of 4 years and imposed 3 years imprisonment, the drugs having been internally concealed. The case of McLaughlan involved 39.35 grams of Amphetamine Sulphate powder at 4% purity. The Court took a starting point of 5 years based on the Turner guidelines with an actual sentence of 2 years to take account of mitigation. Grunte imported 2,164 tablets at 5% purity. He received 4½ years with a starting-point of 8 years, a sentence which was upheld by this court on Appeal.

16. The only other recent case is Bishop-White, Cox and Tacon who were involved in the largest ever importation of Cannabis Resin and at the same time brought in 118.2 grams of Amphetamine with a purity of 14%. Clearly the substantial sentence was going to be for the importation of Cannabis Resin, but the Court following the guidance of paragraph 12 of Richards determined that the appropriate sentence for the Amphetamines, again following the Turner guidelines was a starting point of 7 years with an actual sentence of 4 years and 3 months concurrent. As is apparent this was not something that was going to trouble the accused to the extent that the substantive sentence was the one imposed for the Cannabis Resin, but it is perhaps worth noting in passing, on another point, that the Court there was concerned with two importations of Class B drugs and increased the sentence it would have imposed for the Cannabis Resin (after taking account of mitigation and plea) from one of 8 years to one of 9 years.

## **Submissions of Counsel**

17. Miss Brehaut on behalf of William Jones confines herself to essentially two submissions. Firstly she submits following what this Court said in *Grunte* namely that in determining a band for 100 to 250 grams of a Class B drug in powder form the band at 2/3 of the Class A band should run from 6 years 8 months to 8 years 8 months rather than 7 to 10 years as suggested in *Turner*. The starting point should therefore have been 7 years 6 months rather than 8 years 6 months. Secondly the addition of 12 months to that starting point to take account of the relatively small quantity of cannabis resin imported was excessive. She suggests an addition of six months at the most as appropriate. Miss Mallet and Mr Domaille for the other two appellants addressed us in similar vein

### **Conclusions of this Court**

18. The information gathered by Crown Advocate McKerrell does not, in our judgment provide sufficient evidence either in the United Kingdom or Guernsey of value and dealing activity in the case of amphetamine sulphate either in powder or tablet form to enable this court to continue to endorse the efforts the Royal Court made in *Turner* to adapt the Class A bands so that they could be applied in the same way to cases involving amphetamines. Clearly consistency in sentencing practice is important and the Royal Court, which, we are told, rarely sees cases involving amphetamine sulphate will continue to look at all the previous decisions to which we have referred and use the *Turner* bands as a check. We are not going to attempt to do other than look at the circumstances of this importation and consider what would have been the appropriate sentence for these offences. From what was before the Royal Court it was being suggested that this consignment was of below average strength, but this has not been borne out in Mr McKerrell's further researches, such as they are. We are not persuaded that we should add to the conclusions of the Royal Court in *Francis* or this court in *Richards* on issues of purity. We consider that the starting point on the amphetamines count should have been 7 years following *Grunte*. The lowest starting point was not appropriate as the Appellants clearly set out from Wales with the common design of importing this relatively small consignment of drugs into Guernsey for personal gain. They were not just couriers – it appears that between them they acquired the

drugs as principals. We agree the mark up on the starting point for the more serious offence to take account of the less serious need not have been more than six months. The result is that the starting point on the the more serious count involving the amphetamines is 7 1/2 years rather than 9 1/2. The Royal Court took the view that conviction would have been inevitable, but even so by taking a realistic view of the matter Jamie Jones and Ihle, who had originally given false names and prevaricated, saved a not inconsiderable amount of Court time, which should be reflected in the discount they were given. This balances out the far better record of the carrier of the drugs, William Jones There is little other mitigation. Taking into account these matters the Appeals are allowed to the extent that for the original sentence on count 2 of 6 years 4 months there will be substituted terms of 4 years 6 months imprisonment for each Appellant .