

**Judgment 60/2005**

**Simon Bishop-White, Philip Cox and  
Mark John Tacon – Royal Court (Civil  
file 10.2005) – 7 November, 2005**

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**Importation of Class B drugs – drug trafficking confiscation order – sentencing remarks.**

**IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY**

The 7th day of November, 2005 before Richard John Collas, Esquire, Deputy Bailiff; present:- David Charles Lowe, Derek Martin Le Page, David Michael Jory, Keith Bichard, O.B.E., Esquires, The Reverend Peter Gerald Lane, Michael Henry De La Mare, Michael John Tanguy, Esquires, Susan Mowbray, Barbara Jean Bartie and David Osmond Le Conte, Esquire, Jurats.

In the action of THE LAW OFFICERS OF THE CROWN against SIMON BISHOP-WHITE, PHILIP COX and MARK JOHN TACON to see the said Law Officers present an Indictment containing two counts, copies of which Indictment were annexed to the summonses served upon the said accused and have been delivered to Advocates A.J. Ayres, C.M. Fooks and A. Merrien, respective Counsel for the said accused;

And the said Law Officers claim costs.

*[See Note of Sentencing Remarks for details of charges]*

WHEREAS on the 6<sup>th</sup> day of May, 2005 the accused Bishop-White, Cox and Tacon each appeared before Deputy Bailiff Rowland alone and pleaded Guilty to the two counts in the Indictment and the Court recorded verdicts of Guilty;

AND WHEREAS on the 4<sup>th</sup> day of November, 2005 Deputy Bailiff Collas heard Advocate P. Robey for the Crown and Advocates A.J. Ayres, C.M. Fooks and A.M. Merrien for the accused Bishop-White, Cox and Tacon respectively, and formally postponed the Drug Trafficking hearings in respect of the accused Bishop-White and Cox to Monday the 7<sup>th</sup> day of November, 2005 and postponed the Drug Trafficking hearing in respect of the accused Tacon to a date and time to be fixed;

AND WHEREAS on the 7<sup>th</sup> day of November, 2005 Deputy Bailiff Collas further adjourned the Drug Trafficking matter in respect of the accused Tacon to the 18<sup>th</sup> day of November, 2005;

THE COURT this day having heard Advocate P. Robey for the Crown and Advocates A.J. Ayres, C.M. Fooks and A.M. Merrien for the accused Bishop-White, Cox and Tacon respectively FOUND:-

1. That the accused Cox had benefited from the proceeds of drug trafficking
2. That the value of his proceeds of drug trafficking was £66,298.53
3. That the amount that might be realised in this case was £14,772.63
4. That the amount to be recovered under the Confiscation Order was £14,772.63

AND THE COURT accordingly MADE a Confiscation Order in the sum of FOURTEEN THOUSAND SEVEN HUNDRED AND SEVENTY TWO POUNDS SIXTY THREE PENCE (£14,772.63) in respect of the accused Cox;

AND THE COURT FURTHER FOUND:-

1. That the accused Bishop-White had benefited from the proceeds of drug trafficking
2. That the value of his proceeds of drug trafficking was £41,794.53
3. That the amount to be recovered under the Confiscation Order was £41,794.53

AND THE COURT accordingly MADE a Confiscation Order in the sum of FORTY ONE THOUSAND SEVEN HUNDRED AND NINETY FOUR POUNDS FIFTY THREE PENCE (£41,794.53) in respect of the accused Bishop-White;

AND THE COURT having considered Social Enquiry Reports prepared by Greg Harvey, Probation Officer for Bishop-White, Kerry Le Cheminant, Probation Officer for Cox and Tacon SENTENCED each of the accused as follows:-

In respect of the First Count	–	Nine years imprisonment
In respect of the Second Count	–	Four years and three months imprisonment, concurrent

AND THE COURT ORDERED that the total sentences of nine years imprisonment reckon from the 23<sup>rd</sup> day of November, 2004 in respect of the accused Bishop-White and Cox, and the 3<sup>rd</sup> day of February, 2005 in respect of the accused Tacon;

AND THE COURT ORDERED forfeiture and  
destruction of the drugs the subject of the charges.

S. M. SIMMONDS  
Her Majesty's Deputy Greffier

## **NOTE OF SENTENCING REMARKS**

### **BISHOP-WHITE (41), COX (35) & TACON (41)**

**Monday 7 November 2005**

#### **Background**

1. SIMON BISHOP-WHITE you are 41 years of age. Although born in the UK, you were brought up in Guernsey and since then have always lived in the Island. You married in 2001 but during your period on remand the marriage has broken down. Prior to your arrest, you worked for your cousin as a swimming pool engineer. You have no relevant previous convictions.
2. PHILIP COX you are 35 years old. You were born and educated in Guernsey. We are told you enjoy a close relationship with your family, especially your brother. You are unmarried. Your girlfriend, who you met a couple of years ago, left the Island last year to go travelling. You have no significant previous convictions although you told the Probation Officer that you have used cannabis on a regular, but recreational basis for 15 years. You have had a varied career. At the time of your arrest, you were said to be a self-employed Portfolio Analyst. You also claim to be a successful gambler.
3. MARK JOHN TACON you are 41 years old and a local man. You describe yourself as having had a “fortunate upbringing”. With a colleague you have established a successful business as building contractors. You also have a number of investment properties. You met your wife 12 years ago and have a son who was born in 1994. You have no relevant previous convictions.

#### **Offences**

4. The three of you have pleaded guilty to two counts of being concerned together in the fraudulent evasion of the prohibition on importation of two types of Class B controlled drugs. The first count concerns 75.02 kilograms of cannabis resin and the second count, 118.2 grams of amphetamine. The estimated street value is approximately £600,000 for the cannabis and £3,546 for the amphetamines.
5. Each offence carries a maximum penalty of 21 years imprisonment.

#### **Circumstances**

6. All three of you were arrested on Tuesday 23 November 2004. This followed a long and diligent customs surveillance operation which had involved a large number of Customs Officers in Guernsey and the UK.
7. Mr Tacon and Mr Bishop-White, at the time of your arrest, you were driving in a van which was carrying two carefully wrapped packages containing two table tops in which were concealed a total of 302 packages of cannabis resin and the amphetamines.
8. Mr Cox, you were arrested at the airport on your return to the Island following a trip to England in which you had collected the drugs from a lock-up garage rented by you. You had loaded them into the table-tops and delivered the drugs to the shipping company in Portsmouth. The drugs had been acquired by you and moved into your lock-up garage during a trip to England earlier in November last year.
9. These detailed arrangements for this illegal importation had taken many months to plan and organise. It was a sophisticated operation. Mr Cox, you admitted to the Probation Officer that you had been involved from April 2004 and Mr Bishop-White you admitted to having been involved from September, although both of you allege someone else initiated the operation. Mr Tacon you claim that you first became involved a few days before the arrival of the drugs into Guernsey when you agreed to provide premises for their storage.

10. Two of you claim that the drugs were obtained on credit on the basis that an unnamed person would receive one-half of the cannabis after its arrival into Guernsey. Mr Cox says that he was to pay £28,000 for the other half - 40kgs and that £20,000 of that payment would come from Mr Bishop-White. Mr Bishop-White you admit that you were to pay for the drugs at a future date and you say you remain liable for that payment. The prosecution accept that Mr Tacon was not involved in the financing. The Court sentences you on that basis and notes that the facts that have been agreed solely for the purposes of the drug trafficking investigation are not admissible for the purposes of sentencing. This is because of the different standard of proof applicable and because the Law stipulates that certain assumptions are to be made for the purposes of a drug trafficking determination.

### **Guidelines**

11. In the leading case of *Richards* the Guernsey Court of Appeal referred to the misuse of drugs as being “one of the scourges of European society at the present time”. In that case the Court of Appeal laid down guidelines for the Royal Court to follow when determining the appropriate starting point after full trial and before any mitigation.

12. For cannabis resin, the guidelines include a sentence of 9 – 12 years for a weight in the band 10 – 30 kgs and 11 years upwards for any weight over 30 kgs.

13. In relation to the amphetamines, the Royal Court laid down guidelines on 5 December 2002 in the case of *Turner*. The guideline for a quantity of Class B drugs in powder form, of a weight between 100 – 250 gms is 7 to 10 years.

### **Starting Point**

14. When considering the guidelines, we remind ourselves that they are not an inflexible code and also that sentencing is an art not a science.

15. We also remind ourselves that in the case of *Richards*, the Court of Appeal stated that the starting point has to be determined primarily by considering two factors, namely the quantity of the drugs and the involvement or role of the defendant in the commission of the offence. In that way the Court assesses the extent of the criminal conduct. The greater the sophistication of the methods used to evade detection, the more seriously will the offence be regarded.

16. 302 bars of cannabis resin weighing a total of 75 kgs is the largest amount destined for the streets of Guernsey that has ever been seized. It would have added very significantly to the stock of illegal drugs available to be distributed and sold in the Island. We are told it would have made 520,972 cannabis cigarettes.

17. The Court has also considered carefully your respective roles in this operation to decide what starting point is appropriate in respect of each of you.

### Cox

18. Mr Cox, you have freely admitted that you were responsible for obtaining the drugs in the UK, storing them in your rented lock-up garage until the table tops were ready and then you delivered them to the address where the drugs were concealed in the table tops before you took them to Portsmouth for their shipment to Guernsey. You have also admitted that you were to pay part of the cost of acquiring some of the drugs and that you would have shared in the profit from their sale.

### Mr Bishop-White

19. Mr Bishop-White, you state that your role is as set out in the Probation Report and that it was to be largely confined to collecting the drugs upon their arrival in Guernsey. You admit however, that you were to pay towards the purchase price and that you were to share in the profits from the sale of 20 kgs of

the cannabis. We are also told that it was you who involved Mr Tacon in the operation. You informed the Probation Officer that you agreed to become involved following an approach in September 2004, from one of your co-defendants. The Court considers that your meeting with Mr Cox at the Travel Inn at Southampton Airport is unlikely to have been coincidental as alleged by you and draws the inference that you played a greater role than you have admitted.

#### Mr Tacon

20. Mr Tacon, the prosecution accepts that you were not involved in financing the purchase. You state that your role was to provide the storage in Guernsey. The provision of storage is an important and essential link in the drug distribution chain. You also provided and drove a van for their transport from Camp Code Clos to another address. You were also to benefit from the sale proceeds of the drugs through, you say, a proposed sale of a property to Mr Bishop-White, the precise terms of which would not have been openly disclosed, in order to avoid a liability to Income Tax. Having considered all the facts including, in particular, the transcript of your recorded conversation while driving with Mr Bishop-White in your van, the Court draws the inference that you played a bigger part than you have admitted.

21. The Court determines that the appropriate starting point in respect of all of you is 14 years for the cannabis resin and 7 years for the amphetamines.

#### **Mitigation**

22. The Court has listened carefully to all that has been said, very ably, by your respective Counsel on your behalf and has considered the contents of the Social Enquiry Reports in respect of each of you and the letters that have been handed to the Court for its consideration. You have all been given full credit for your guilty pleas.

#### Mr Bishop-White

23. Mr Bishop-White, you have pleaded guilty to the offences. You have no relevant previous convictions. You are a hard-working man who has brought shame on himself and his family and brought about the collapse of your marriage. You face the prospect of losing your house. You have expressed your remorse in a heart-felt letter that the Court has read.

#### Mr Cox

24. Mr Cox, you returned freely to the Island on 23 November knowing that it was very likely that you would be arrested. During your second interview with Customs you gave a full explanation of the extent of your role in this importation. You entered an early guilty plea. Your previous criminal record is not relevant to these offences. You have also expressed your remorse and have the full backing of your family, who are deeply shocked and disappointed at what you have done.

#### Mr Tacon

25. Mr Tacon, you have pleaded guilty to these charges in May. You have also expressed remorse. You too regret your greed and stupidity at becoming involved in these matters. The shame and difficulty that it has brought to your family is evident from the correspondence that we have seen.

#### **Drug Trafficking**

26. The Court formally makes the Drug Trafficking Orders requested by the Prosecution and agreed by Counsel in respect of Mr Bishop-White and Mr Cox. Those Orders are as follows:

#### Philip Cox

- 1 That COX has benefited from drug trafficking
- 2 That the value of his proceeds of drug trafficking is £66,298.53

- 3 That the amount that might be realised in his case is £14,772.63
- 4 That the amount to be recovered under the Confiscation Order is £14,772.63

Simon Bishop-White

- 1 That BISHOP-WHITE has benefited from drug trafficking
- 2 That the value of his proceeds of drug trafficking is £41,794.53
- 3 That the amount to be recovered under the Confiscation Order is £41,794.53

27. The Drug Trafficking hearing in respect of Mr Tacon has been postponed to a future date.

**Sentencing – STAND UP**

28. You will each serve the same length of sentence.

29. We have considered the sentence that is appropriate for each of the two counts in isolation and then we looked at the totality of the sentence you will serve.

30. On the first count alone, you would have been sentenced to 8 years, 6 months. On the second count you would have been sentenced to 4 years, 3 months. So that the totality of the sentence is appropriate to reflect the inclusion of amphetamines, the sentence of the Court is increased to 9 years on count one. On count two, the sentence is 4 years, 3 months with both sentences to run concurrently.

31. For Mr Bishop-White and Mr Cox, your sentence takes effect from 23 November 2004. For Mr Tacon it takes effect from the date of your re-arrest on 3 February this year.

32. Finally, the Court orders that the drugs seized in this matter be destroyed.

33. The Court would like to commend Customs for their hard work and diligence in bringing this sophisticated operation to Court.