

Judgment 63/2005

**Andrew Holden – Royal Court (Criminal file
28/2005) – 9 November, 2005**

Importation of Class B drug – Drug Trafficking Confiscation Order – sentencing remarks

IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 9th day of November, 2005 before Richard John Collas, Esquire, Deputy Bailiff; present:- David Charles Lowe, Derek Martin Le Page, Alan Cecil Bisson, David Michael Jory, Keith Bichard, OBE, 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 ANDREW HOLDEN to see the said Law Officers present an Indictment containing one count, a copy of which Indictment was annexed to the summons served upon the said accused and has been delivered to Advocate A. J. Ayres, Counsel for the said accused;

And the said Law Officers claim costs;

[See Note of Sentencing Remarks for details of charges]

The accused Holden having pleaded on the 16th day of September, 2005 before the Bailiff sitting alone, Guilty to the one count in the Indictment, THE COURT recorded a verdict of Guilty;

THE COURT this day having heard Advocate P. Robey for the Crown and Advocate A. J. Ayres for accused thereon, and having considered a Social Enquiry Report prepared by Ms. K. Le Cheminant, Probation Officer:

- (1) SENTENCED the accused to five years and three months imprisonment, such sentence to run from the 28th day of July, 2005;
- (2) FOUND, under Section 11 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000

- (i) THAT the Accused had benefited from the proceeds of drug trafficking,
and
- (ii) THAT the amount which might be realised in this matter was £305.19;
- (3) MADE a Confiscation Order in the sum of THREE HUNDRED AND FIVE
POUNDS AND NINETEEN PENCE (£305.19); and
- (4) ORDERED the forfeiture and destruction of the Cannabis Resin, the subject of
the charge.

M. A. TOSTEVIN
Her Majesty's Deputy Greffier

NOTE OF SENTENCING REMARKS

Andrew HOLDEN (32)

Wednesday 9 November 2005

Drug Trafficking

Background

1. Andrew Holden, you are 32 years old. You were born in Wrexham and have lived in that area throughout your life. You are unmarried, but have been in a relationship since the beginning of this year with a partner who accompanied you to Guernsey with her 7 year old child, a fact which the Court regards as an aggravating factor in this case. You have previous convictions for possessing illegal drugs, but have never served a custodial sentence.

Offence

2. You have pleaded guilty to a single count of being knowingly concerned in the fraudulent evasion of the prohibition on importation of controlled drugs, namely cannabis resin.

3. The offence carries a maximum penalty of 21 years imprisonment.

Circumstances

4. You travelled to Guernsey with your partner and her child from Weymouth on the Condor Ferry. Concealed in the spare wheel in the boot of your car were packages containing 25 bars of cannabis resin weighing 6,110.31 grams.

5. You state, and the Court accepts, that you were acting as a courier. You were on a day trip to Guernsey. The car had been provided to you for the purpose of this trip. You say that the drugs were already loaded before you collected the car and you had no chance to inspect the contents of the spare wheel. You thought you were importing 5 kgs of cannabis resin. Your girlfriend was initially arrested but released later that same day.

Guidelines

6. 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 *Richards* the Court of Appeal laid down guidelines for the Royal Court to follow when deciding what should be the starting point, that is the sentence that would be appropriate after a full not-guilty trial and before any mitigation.

7. For a quantity of cannabis resin weighing 5 – 10 kgs, the starting point is in the band 7 – 10 years.

8. In this case, the Court takes the starting point as 8 years.

Mitigation

9. The Court has taken account of your guilty plea and the circumstances of your interview with Customs as explained by your Advocate today. The Court has given you a one-third discount as full credit for your guilty plea.

10. The Court has taken full account of all that has been said on your behalf and has carefully considered the contents of the Social Enquiry Report and the reference from your former employer.

Drug Trafficking

11. Drug Trafficking Orders sought by the Prosecution are agreed by you. Accordingly the Court finds that you have benefited from drug trafficking to the amount of £305.19. The value of the assets that might be realised amount to £4,374.58. Accordingly, the Court orders that the amount to be recovered under a Confiscation Order is £305.19.

Sentence

12. The Court has listened carefully to all that your Advocate has said, including that you are remorseful, you have learned the error of your ways and intend to adopt a mature approach to life on your release with the support of your partner and your former employer who has offered you re-employment. The Court strongly encourages you to do so.

13. Having considered all the circumstances of the case and all the matters I mentioned above, the Court sentences you to an immediate custodial sentence of 5 years, 3 months to take effect from the date of your arrest, 28 July 2005.

14. Forfeiture and destruction.