

**ROYAL COURT  
FULL COURT**

**15 March 2019**

**Before: Richard James McMahon, Esq., Deputy Bailiff and:  
Barbara Jean Bartie, Terry John Ferbrache, David Allan Grut, David James Mortimer,  
Alan Stevenson Boyle, Peter Francis Gill, David John Robilliard, Marilyn Jasmine King, Terry  
George Snell, Jurats.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**Lee Nathan JEHAN**

**Advocate C G Dunford appeared for the Crown**

**Advocate S Maindonald appeared for the Defendant**

**DEPUTY BAILIFF:**

**Background**

Lee Jehan, you appear this afternoon to be sentenced in respect of an Indictment containing five Counts. Two of the Counts (numbered 2 and 4) are in respect of being concerned in the supplying of a controlled drug to another, contrary to section 3(3)(b) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended. Count 2 concerns cannabis resin, a class B drug and Count 4 concerns Diazepam, a class C drug. The maximum penalties for these offences are 21 and 14 years' imprisonment respectively. Count 1 relates to assaulting the bar manager at The Golden Lion. The sentence for this offence is at large, which means that the maximum penalty available is life imprisonment, although this Court tends to reserve higher sentences for offences of wounding and serious injury where intention is proved, which is not the case here. Count 3, resisting a police officer in the execution of the officer's duty contrary to section 1(2) of the Offences against Police Officers (Bailiwick of Guernsey) Law, 1963, as amended, carries a maximum penalty of just 3 months' imprisonment. Count 5, criminal damage of property valued at £495 contrary to section 1(1) of the Criminal Damage (Bailiwick of Guernsey) Law, 1983, carries a maximum penalty of 10 years' imprisonment.

You were born in Jersey, but have lived locally for the bulk of your life. You were aged 38 when committing these offences and are now 39. All of the offences arose on the same day, following your drunken fracas in The Golden Lion (the assault), you displayed resistance to being dealt with by the Police shortly thereafter in Market Square, which led to the discovery of drugs in your bag, which you admitted you intended to supply, and finally there was your damage to the number board at the Police Station. The street value of the total of 265.61 grams of cannabis resin is between £5,320 and £7,980 and the street value of the 48¾ Diazepam tablets is put at between £195 and £487.50.

You have a long list of previous convictions. Of particular note is your conviction in 2007 for unlawful wounding, for which you were sentenced to 30 months' imprisonment. Alcohol consumption appears to be a common thread in much of your previous offending.

You have been in custody throughout these proceedings since your arrest on 5 September 2017. This is a long time, but we have been told about the reasons for it.

### **Sentencing Considerations**

Although all these offences came to light on the same day, there are two particular strands that we find emerge. The first relates to your violent and temperamental behaviour and the second to your drug dealing.

We are fortunate that, in general terms, Guernsey is a less violent society than in many other places, including England. Our approach is to impose sentences in the light of Guernsey considerations, where deterrence is generally a significant factor, which may mean sentences appear harsh, but that approach has been endorsed by the Court of Appeal, eg, in *Ryder* (2009). Public houses are meant to be places to which persons can have resort for an enjoyable, sociable experience. Customers do not need to witness serious violence from drunks and publicans deserve this Court's protection. It is most fortunate for you that the subject of your attack, who was acting responsibly in respect of the licensed premises he managed, was not injured. However, when someone like you consumes alcohol to excess, especially when combined with taking benzodiazepines, and loses control in such spectacular fashion, they have to face the consequences. Although not bound to do so, we find that the guidance given in the Assault Definitive Guideline (Crown Court) of the Sentencing Guidelines Council contains much helpful information about the approach to take.

Using the screwdriver as a weapon is a factor we regard as adding to your culpability for what was a vicious attack that could have ended up being far worse and the offence's seriousness is further affected both by your previous conviction for unlawful wounding and the location of the offence where others were present. Your general stropiness through inebriation, as shown by your reaction when dealt with by the Police, is a further factor we have borne in mind. Had this been the only offence for which you fell to be sentenced, this Court is still satisfied that the custody threshold has been passed and would be considering a substantial sentence, with the starting point being in the region of 3 years' imprisonment.

Turning to the two supply offences, the Court of Appeal in the case of *Richards* in 2002 established guidelines for class B drug offences to which this Court is obliged to have regard. For a drug trafficking offence involving cannabis (that includes supplying) where the weight is below 2 kilograms, as here, the guideline starting point is in the range of 3 to 6 years' imprisonment. There is no guideline in respect of class C drugs but, if taken in isolation, the lowest band would be adjusted in any given case downwards from those for both class A and class B drugs. However, in *Richards*, the Court of Appeal commented that, in the context of importations of more than one type of drug, and we see no reason to differ for offences of supply, the exercise involves identifying a total starting point that will be greater than the starting point for the more serious of the individual offences and then to refrain from imposing consecutive sentences. In other words, the second drug is effectively treated as a further aggravating factor when considering the totality of the offending.

Having regard to that approach, the starting point we have chosen for Count 2 is 4 years' imprisonment, which reflects the quantity of drugs found on you and the prosecution concession that you intended to supply only about half of the amount of cannabis resin and that the Diazepam was intended for your partner to assist with sleeping.

This Court has given careful thought as to whether it is more appropriate to impose consecutive sentences for these two main aspects of your offending or whether to have further regard to the totality principle and select a sentence that properly reflects all the component parts of your actions

that day. We recognise that the drug dealing offences would have been unlikely to come to light at that time but for you having to be dealt with for the assault and that you admitted your intentions in relation to the drugs from the outset, which is a mitigating factor in your case. However, they are quite distinct offences, and so we feel it will be clearer to impose distinct sentences rather than simply increase the higher of the sentences under the totality principle. We have, throughout, borne in mind the overall sentence you will face.

In all these regards, we will treat the two lesser offences of resisting a police officer and criminal damage as having the same origins as the assault, being part and parcel of your drunken loss of control, and deal with them by shorter sentences to run consecutively so far as is appropriate.

## **Mitigation**

We have listened to everything that has been said about you and on your behalf by Advocate Maindonald and we have read the letters that have been supplied to us. We note your remorse and your apologies. Your early guilty pleas on several Counts go to your credit and we have, therefore, afforded you the full one-third discount from our starting points in respect of them. The guilty pleas for the drug offences were delayed. We understand the reasons, but it does mean you forfeit some of the discount to which you would otherwise be entitled. In that regard and treating matters in the round, we have generously decided to apply a discount of 25% for those offences.

We have taken into account what is written about you in the Probation Report. In doing so, we note the assessment that there is a moderate likelihood of general re-offending and that, when heavily intoxicated, you present as being a direct risk of harm to members of the general public. Equally, if you refrain from consuming alcohol, whether entirely or at least to excess, that likelihood would reduce. Once you sobered up you were co-operative with the investigation.

We have noted, as well, that you were in substantial debt. However, being in dire financial straits is no justification for turning to drug dealing. What is also clear to us is the connection between alcohol and the misuse of substances and your pattern of offending. We accept that you have had a long time on remand during which to reflect about the way to deal with any problems you face in the future.

## **Sentence**

Mr Jehan, we have two simple messages for you today. The first is that this Court will not tolerate violence. Where violent behaviour flows from getting into a state where you have no, or little, recollection of events, this Court firmly believes that the public deserve to be protected for as long as is reasonable and proportionate from those who are unable to control themselves. The second is that sentencing for drug-related offending also continues to involve a deterrent element, recognising that unlawful use of controlled drugs continues to be a scourge on our society, where its consequences go beyond those directly involved in peddling them.

We give you the credit we have mentioned for your guilty pleas and take into account the other mitigation advanced on your behalf, but we are satisfied that only a substantial custodial sentence is warranted.

Starting with Count 1 (the assault), the sentence we impose is one of 2 years' imprisonment.

For Count 3 (resisting a police officer), we impose a sentence of 2 months' imprisonment, but that will be made to run concurrently to the sentence on Count 1.

For Count 5 (the criminal damage), bearing in mind the compensation sought, to which we will turn in a moment, we have decided to impose no separate other penalty for that offence.

Turning finally to the two supply Counts, in respect of Count 2 (relating to cannabis), the sentence we impose is one of 3 years' imprisonment. That sentence will run consecutively to the sentence imposed in respect of Count 1. For Count 4 (relating to the Diazepam), we impose a sentence of 15 months' imprisonment and that will be made to run concurrently to the sentence in respect of Count 2, but will also be consecutive to the sentence on Count 1.

We have taken into account the time you have already been in custody and so backdate the current sentences so that they run from 5 September 2017. In summary, therefore, the overall sentence of imprisonment imposed this afternoon is one of 5 years' imprisonment which runs from 5 September 2017.

In accordance with section 1 of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, upon release (or completion of any Parole period if applicable), you will be subject to supervision by the Probation Service for a period equal to one quarter of the total sentence or the period you would have served had you not received remission, whichever is less. If you fail to comply with the conditions of the supervision, you will be liable to further imprisonment, a fine, or both.

The forfeiture and destruction orders in respect of the cannabis resin and Diazepam seized, as sought by the Crown, are granted.

Compensation has been sought in the amount of £495 for a replacement for the damaged identification board, this being the amount quoted for a replacement. We note that this application is not opposed and so it will be granted. What we will do Mr Jehan is take the £304 that was found on you at the time and put that towards it and the balance we are going to say will be payable within 2 months (and that is being generous so you are not without funds when you are released), but 2 months following your release from Prison, just to give you a bit of time.

There has been no request on behalf of Her Majesty's Procureur for a drug trafficking investigation so that is all for this afternoon and will you now please go with the Officers.

**Richard McMahon**  
**Deputy Bailiff**

**15 March 2019**