

ROYAL COURT
FULL COURT

22nd November 2019

Before: Judge J R Finch OBE, Judge of the Royal Court and:
David Percy Langley Hodgetts LVO, Niall David McCathie, Steven John Morris,
David James Mortimer, Joanne Marie Wyatt, Peter Francis Gill, David John Robilliard,
Marilyn Jasmine King, Tina Jane Le Poidevin, Jurats.

THE LAW OFFICERS OF THE CROWN

- v -

LEE ALAN SMITH
&
PETER STEVENS

Advocate R J Calderwood appeared for the Crown
Advocate S E Steel appeared for the First Defendant
Advocate P Lockwood appeared for the Second Defendant

JUDGE OF THE ROYAL COURT:

Background

You appear here today for sentence on an Indictment containing 3 counts:

Count 1 for both of you:

(i) Count 1 - the unlawful importation of the Class B drug Cannabis resin;

Counts 2 and 3 are in respect of Mr Stevens:

(ii) Count 2 – the unlawful importation of the Class C drug Etizolam; and

(iii) Count 3 – the unlawful importation of the Class A drug MDMA

- Count 1 carries a maximum of 21 years.
- Count 2 carries a maximum of 10 years.
- Count 3 carries a maximum of life.

Count 1 is a joint enterprise. You are 42 and 52 years old respectively and of previous good character. You are UK persons apprehended at the Airport and you have been in custody since your arrest on the 24th May, 2019. Early guilty pleas were indicated. As stated, Count 1 is a joint charge; the total cannabis resin was 655.67 grams, Guernsey street value £13,113.40 to £19,670.10.

The 140 Class C tablets have no recognized local street value. The 12.64 grams of MDMA have a local street value of £1,011.20 to £1,264.00.

We have heard the detailed circumstances of your arrests. To cut a long story rather short, it transpired both of you had internally concealed the cannabis resin: 301.93 grams for Mr Stevens,

353.74 grams for Mr Smith. Stevens at the hospital passed 23 packages; each wrapped in latex and tied with a knot. Subsequently after observation a further 35 packages were passed, total 58. Mr Smith was found with 2 packages in his shorts. Later 66 packages were produced, total 68. As has been pointed out you had to be monitored closely over a 48 hour period at the hospital and guarded 24 hours a day in private rooms, and we also note your early lies to the officers.

Sentencing Considerations

You will have been told by your Advocates that for offences of this nature, we are bound by sentencing guidelines from our Court of Appeal. Our task is to assess all the relevant factors, especially the amounts in fixing a starting-point and then apply any relevant mitigation.

Count 1 is joint - the amount again was 655.67 grams. For the quantity of cannabis up to 2 kilos, the range given by the Court of Appeal is 3 to 6 years. For Class A drugs of 1-20 grams, the range given by the Court of Appeal is 7 to 9 years. For Class C we apply half the Class A period, here for 140 tablets, 3½ - 4½ years. We need, in respect of the second defendant to come to a total starting-point based on the different illegal drugs imported.

The use of stuffing and/or swallowing as a method of seeking to evade discovery, has always been regarded here as a very significant aggravating feature. Also, a claim the MDMA was for personal use does not help an accused, where as here the quantity was not miniscule, but a significant amount. Bearing in mind these factors, and always remembering that sentencing is never a purely mathematical exercise, as well as seeking to apply the totality principle, for the second defendant, we start at 4 years 8 months' each on Count 1.

Adding up all three counts faced by the second defendant leads to a larger total, especially noting the significant amount of MDMA, 12.6 grams. The appropriate starting-point here is, in our judgment is 9 years. In fact, this period hardly reflects the Class C importation and, to that extent, is favourable to the Second Defendant.

Mitigation

We are now called-upon to consider and apply relevant mitigation. We have carefully noted the submissions of your talented Advocates, the helpful Probation reports, and the other written materials put forward by both of you on your behalf.

The applicable mitigation is your previous good character. Because of this, we immediately select a one-third discount each. The guilty pleas were, in these unpleasant circumstances, hardly a struggle. The evidence could not have been stronger and these pleas were inevitable. Only a minor reduction applies here. Hence our total mitigation for each is just over one-third.

Sentences

The Cannabis resin was a money-making operation to bring illegal drugs into this jurisdiction. Both of you have a history of drug abuse. You took a big risk and were captured. We also do not appreciate that valuable healthcare resources were wasted on you due to the internal concealment. Hospitals are for helping genuinely ill people, not drug smugglers and also Customs resources were tied-up. We take into account fully our sentencing policy and seek to impose sentences that accord with it. We need to stress that the importation of Class A drugs, as in Count 3, is treated very seriously. We also stress once more that this was not a negligible amount; in fact it was, as we have said, a significant amount. This is reflected in the total.

- In respect of Count 1 which applies to each Defendant the sentence is 3 years' imprisonment.

- In respect of Count 2 in respect of the Second Defendant the sentence is 18 months' imprisonment, concurrent.
- In respect of Count 3 for the Second Defendant the sentence is 5 years and 6 months' imprisonment. All his sentences – 1, 2 and 3 are concurrent.
- **Total: 5 years and 6 months for the Second Defendant** (Stevens) and **3 years' for the First Defendant** (Smith). With effect from, generously, we make it the 24th May, 2019
- With Confiscation and Destruction Orders as requested.
- The Drug Trafficking investigation will be dealt with just in a moment.

It was smart work by the search dog, although it is to be noted that the fact these persons were able to walk is in itself surprising.

Judge J R Finch OBE
Judge of the Royal Court

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