

**ROYAL COURT
FULL COURT**

11 December 2019

**Before: Judge J R Finch OBE, Judge of the Royal Court and:
Claire Helen Le Pelley, Niall David McCathie, Jonathan Grenfell Hooley,
Steven John Morris, Alan Stevenson Boyle, David John Robilliard,
Stuart Michael Crisp, Tina Jane Le Poidevin, Paul Martin Burnard, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

**Mark Harry Vivyan BICHARD
&
Lisa Marie LE PAGE**

**Advocate R J Calderwood appeared for the Crown
Advocate David E J Thompson appeared for the First Defendant
Advocate S Mallett appeared for the Second Defendant**

JUDGE OF THE ROYAL COURT:

Background

This is a more than ordinarily complex case and we have had the benefit of a careful and extremely detailed outline on behalf of the Crown.

There are two Indictments. In the first there are fifteen counts. Count 1 involved Miss Le Page only; supplying the co-accused with cannabis. The maximum penalty is 21 years. Counts 2 and 3 involve the production, i.e. cultivation of cannabis. Mr Bichard cultivated a cannabis plant, a specimen count and Miss Le Page aided and abetted him. The maximum penalty on these is 14 years. Counts 4 to 15 on this Indictment are importations relating to both accused and a joint enterprise. On the last, Count 15, cannabis resin is specified. The maximum for each of these offences is 21 years.

The second Indictment relates to the male defendant alone. Count 1 supply and Count 2 supply, for cannabis and cannabis resin respectively. The maximum here is 21 years. Count 3 is possession of cannabis resin; maximum 10 years. The offences were committed whilst on Police bail and later Court bail for the first Indictment offences, including for sentence.

The facts of the case, as stated, have been gone over in full detail. A considerable amount, indeed the vast majority of the evidence comes from mobile phones. We need not go over all this material. The vocabulary and phrases used in drug deals are very familiar to us and the words do not need exposition. We summarize the situation for the purpose of these sentencing remarks.

The defendant, Miss Le Page, provided Mr Bichard with assistance in a number of ways, actively sourcing drugs for him (but not for her own use) and there is no evidence of her gaining financially here and with Count 2, as a specimen against Mr Bichard for cultivation. He grew multiple plants, but the

number is not known. Miss Le page provided considerable assistance with equipment, a base and internet links. Again, there is no evidence of personal profit for her. She appears to have wished to assist her then partner.

As mentioned, Counts 4 to 15 are joint enterprise unlawful importation charges. There is a mass of highly incriminating and unambiguous evidence against both defendants. This is against the background of Miss Le Page knowing Mr Bichard's abuse of cannabis, assisting him in this, and indeed ordering a bong and rolling machine. Mark Bichard was a heavy user and there is definitive evidence of onward supply. We agree that on these undoubted facts and there was no need to further burden the indictment with supply charges. We accept, as the Prosecution fairly put it, there was no evidence Lisa Le Page was involved in the onward supply of the unlawfully imported drugs, although she was wholly concerned in their importation. The last importation was intercepted by the ever-vigilant Customs and arrests followed. Cannabis, cannabis seeds and cultivation items were located at the address.

There were a number of unimpressive interviews by both defendants which are full of lies. We have, of course, had the details. That is the first Indictment. Eleven days before Mr Bichard was due to be sentenced (both persons then being on bail); he was assisted down from a roof by the Fire Service. Incriminating evidence was found, a phone etc. However, yet again an examination of mobile phone evidence was significant. He was shown to have been involved in the obtaining and distribution of illegal drugs, as stated, when on Police bail and later Court bail. There are two counts representing the nature of the drugs, as stated. Mr Bichard's responses again were lies. We note that Count 3 is now essentially irrelevant and we will deal with it accordingly. We also accept that Mr Bichard's reoffending caused a significant delay in his co-accused's sentencing, through no fault of hers.

Miss Le Page is of previously good character. Mr Bichard has convictions including assault, dishonesty, possession with fines and Community Service Orders.

In relation to the first Indictment, only one package was caught out. The exact amount of all these things won't be known for the reasons set out fully by the Prosecution, approximately 300 grams are assumed each. Assumptions can properly be made by inference as the Court of Appeal has said. Lisa Le Page paid the importer, £4,535 over fourteen transactions. The figure places it within the first band of sentencing starting-points in the guideline case of Richards. Misuse of the postal system is a factor.

The history of the case, in all the circumstances concerns us in two main ways. Firstly, we note 'guilty' pleas were entered, but Mr Bichard's reoffending on bail caused a substantial, as we have said, and understandable delay.

Sentencing Considerations

We are bound to apply the Richards guidelines; the Court of Appeal case binds us.

The Court is of the view that this is one of those rare and truly exceptional cases where mercy can be extended to Miss Le Page.

This is not a precedent; we still start with a sentence of imprisonment, but the personal mitigation, exemplified by the very thorough and compelling reports from Dr Briggs are, in our judgment, of considerable weight.

Each case, of course, depends on its own merits – pleas about children and family life are never going to be an automatic ticket to non-custodial sentences. People who act illegally must face the consequences. Here we follow the recommendations in the Probation report. To his credit, Mr Bichard's letter today assumes responsibility and assists Miss Le Page's case; after considerable exploitation of a vulnerable young woman.

Mr Bichard was already actively involved in criminal activities as a prime mover. He then re-offended on bail. That is a very significant aggravating feature. We have to give effect to it.

The uplift takes us to a combined total, as a starting-point on both Indictments of 7½ years before we look at mitigation. We apply the totality principle. In relation to the total, our conclusion would be the same, whichever route was followed.

Mitigation

Miss Le Page's good character is important and reflected. The 'guilty' pleas are also good mitigation for both defendants, even though inevitable on all the facts, especially the phone evidence. We have carefully listened to what both defence Advocates have said, considered the very helpful reports and as mentioned, Mr Bichard's letter and the written references.

We afford Bichard a full one-third discount, erring if at all on the side of leniency. But the re-offending, as said, is very important.

Miss Le Page's case can be dealt with in a different manner. We repeat, it is on the facts, not a precedent, we emphasize again. It is not necessary to refer to all the highly personal information given in the reports. From time to time exceptional cases do arise.

Sentence

In respect of **Miss Lisa Le Page** we sentence as follows:

- On Counts 1 and 3 - there will be a Probation Order for 2 years on each concurrent. Total: 2 years' Probation.
- On Counts 4 to 15 - on each Count a Community Service Order for the maximum of 240 hours unpaid work to be done within a 12 month period as a direct alternative to 18 months' imprisonment – all concurrent.
- **Total: 2 years' Probation and 240 hours Community Service or else 18 months' imprisonment.**

That means, as your Advocate will patiently explain to you Miss Le Page, you must do every minute of those 240 hours. The only valid excuse being a medical certificate and if you don't do all of that period you will be brought back to Court and you will have the 18 months' imprisonment. In addition to which, if you breach the Probation by re-offending or not doing what the Probation Order tells you, you will be breached and brought back here and you will face a custodial sentence. You are walking today in view of the very unusual circumstances of the case. The sympathy card won't work again, do you understand?

In respect of **Mr Bichard**, we need not repeat what we have said – you took your chances – you got caught twice – this was a course of the illegal activities and accordingly you have got to pay the price today.

On the first Indictment matter:

- Counts 2, 4 – 15 - On each Count there is 2 years' imprisonment concurrent with effect from the 21st August, 2019.

On the second Indictment:

- Counts 1 – 2 - 3 years' imprisonment concurrent to each other, but consecutive to the above.
- Count 3 - no order.
- **Total - 5 years' imprisonment with effect from the 21st August 2019**

- Statutory Supervision after release for one quarter of the total sentence.
- Confiscation and Destruction Orders as requested.
- Drug Trafficking timetable to follow.

We commend and appreciate the good work by Law Enforcement in the investigation.

Judge J R Finch OBE
Judge of the Royal Court
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