

**ROYAL COURT
FULL COURT**

6th January 2020

**Before: Judge J R Finch OBE, Judge of the Royal Court and:
Peter Sean Girard, Terry John Ferbrache, David Allan Grut,
Joanne Marie Wyatt, Alan Stevenson Boyle, Peter Francis Gill, David John Robilliard,
Marilyn Jasmine King, Tina Jane Le Poidevin, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

**Darian Jordan Lukas PERKINS
&
Jack Edward Brian WELSH**

**Crown Advocate F M Russell appeared for the Prosecution
Advocate S E Steel appeared for the First Defendant
Advocate L C Roffey appeared for the Second Defendant**

JUDGE OF THE ROYAL COURT:

Background

You appear here today for sentence. There are two Indictments. The first contains 2 Counts: both of you concerned together in the unlawful supply of the Class A Drug MDMA; the second relating to Mr Welsh alone, the unlawful possession of the Class B controlled drug cannabis. The sentences are a maximum of life and 10 years respectively.

The Second Indictment relates to Mr Welsh alone. Five different counts of fraud, which amount to theft by employee. Each carries a maximum of 12 years' imprisonment. Counts 6 and 7 are possession of a small amount of cannabis resin and cannabis respectively, the maximum again being 10 years' imprisonment.

From my calculation, Mr Perkins is now aged 21 - 20 at the material time and Mr Welsh is 20, so he is subject to the Youth Detention Law as his counsel have pointed out. Mr Perkins has relevant previous convictions for theft, burglary and deception in 2015 and theft in 2018, the latter punished by fines of £500 and £250. There is also a caution for the unlawful possession of a controlled drug. Mr Welsh has minor traffic convictions but we propose to treat him as of previously good character.

Both of you are local persons. Mr Welsh committed the offences on the Second Indictment whilst on bail relating to the First Indictment. Guilty pleas were given at a plea and directions hearing. Mr Perkins breached his bail in the Magistrate's Court on an assault charge and has been in custody since the 19th September 2019. I propose to constitute myself as the Magistrate's Court and deal with this at the conclusion of this case.

We have heard the facts. After efficient work by Law Enforcement, Perkins was detained on the grounds of a local football club. Nearby a quantity of drugs was found. A mobile phone was seized from him and revealed a number of incriminating drug-related messages between him and Mr Welsh. We have considered the main details. In an earlier interview Mr Perkins lied. Later on he made no comment after the phone was examined, as is his right.

Mr Welsh was interviewed and also made no comment. On a later date he made admissions of drug dealing and possession of Cannabis, about which we have heard. He stole from his employers, as stated five times whilst on bail using false refunds. The total lost to his employers, who had previously treated him well and kindly was £124.31. There were also two items of personal use cannabis and cannabis resin.

At the original scene, going back to the First Indictment, 31 Ecstasy tablets were found where Mr Perkins had been. The value in Guernsey being £1,000 to £1,500, based on the total of 40 to 60 tablets, as is depicted from the phone messages, which are pretty clear.

Sentencing Considerations

In respect of Count 1 in the First Indictment, which we remind ourselves, concerns both defendants, we are bound by sentencing guidelines from our Court of Appeal. For the quantity of Class A tablets in the amount of 1 to 500 the starting-band is 7 to 9 years. Count 2 will be dealt with concurrently.

On the Second Indictment, faced by Mr Welsh alone, we have a series of breaches of trust by an employee. These were not a 'one-off' and a custodial sentence is merited, taking account of all the circumstances. We start at a total of 6 months for these, including the personal use cannabis matters, and in respect of the serious Count 1, at the bottom of the scale i.e., 7 years for each defendant. It suffices to say here, that both accused were actively involved in dealing. You both met through the football club. We note that the plan had been to deal drugs at a function on the club's premises. We hope this is not the case in future events and they will be appropriately monitored.

Mitigation

Having looked at starting-points, we go on to consider mitigation.

There are a number of different factors to weigh in the balance. We are bound to give effective recognition to the guilty pleas, despite the strength of, especially the phone evidence. In respect of Counts 1 and 2 on the First Indictment, Mr Welsh was entitled to credit for his previous character, but re-offended whilst on bail, resulting in the Second Indictment, and "not learning your lesson". Mr Perkins does have a previous record of dishonesty and a caution for possession which we mentioned, that occurring on the 22nd February 2018. We also note that Mr Welsh, being under 21 years, is subject to the limits of Youth Detention Law, not imprisonment, and that, too, has to be recognised. He also made full and frank admissions, which goes to his credit. So taking everything fairly into account, including what both Advocates have told us and the documents and the helpful Probation reports, we need to decide what discount the mitigation enables us to give, noting, as we always do, that sentencing always depends on the individual facts of the case and is never a question of pure arithmetic. This results in a somewhat higher discount for Welsh, but then the breach of bail needs to be factored in additionally. On the main matter, the supplying, we give Mr Welsh an over 50% discount and rather over one-third to Mr Perkins, for the reasons given.

Sentence

In respect of the First Indictment:

- On Count 1, which is the most serious one – **Mr Perkins** the sentence is 3 years and 9 months’ imprisonment, with effect from 19th September 2019;
- On Count 1 – **Mr Welsh**, under the Youth Detention, you are given 2 years and 9 months’ Youth Detention from today on the grounds of the seriousness of the offence.
- On Count 2 – **Mr Welsh**, 7 days’ Youth Detention concurrent, again on the same ground.

In respect of the **Second Indictment** (relating to **Mr Welsh only**):

- On Counts 1 to 5 - 3 months’ Youth Detention on each, concurrent to each other but consecutive to the sentence on the First Indictment on the grounds of the seriousness of the offences, individually and in totality.
- On Counts 6 to 7 – 7 days’ Youth Detention on each, concurrent and concurrent to everything else as well.

The totals therefore work out as follows on the Indictments before the Court:

- **Mr Perkins** – 3 years and 9 months’ imprisonment, with effect from the 19.09.2019.
- **Mr Welsh** – a total of 3 years’ Youth Detention, with effect from 06.01.2020.
- There will be compensation, as requested, to Norman Piette.
- In respect of each there is Compulsory Statutory Supervision after release under the relevant legislation and Confiscation and Destruction Orders as requested.

We will now retire and the Jurats will disperse. **Mr Perkins** remained in Court until the Judge of the Royal Court returned as a Judge of the Magistrate’s Court to deal with the outstanding assault matter.

Judge J R Finch OBE
Judge of the Royal Court

6th January 2020