

**PLEASE NOTE THERE IS A RESTRICTION ON IDENTIFYING/NAMING THE
DEFENDANT IN VIEW OF HIS AGE**

**ROYAL COURT
FULL COURT**

14 February 2020

**Before: Judge J R Finch OBE, Judge of the Royal Court and:
Stephen Murray Jones OBE, Claire Helen Le Pelley,
Jonathan Grenfell Hooley, David James Mortimer,
Alan Stevenson Boyle, Peter Francis Gill, Marilyn Jasmine King,
Tina Jane Le Poidevin, Paul Martin Burnard, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

Z (A YOUNG PERSON)

**Crown Advocate C G Dunford appeared for the Crown
Advocate L C Roffey appeared for the Defendant**

JUDGE OF THE ROYAL COURT:

Background

You appear here today for sentence on three separate Indictments:

- The First Indictment – this concerns 3 separate Counts of unlawfully importing the Class B controlled drug, cannabis. The maximum penalty is 21 years' on each.
- The Second Indictment – 3 Counts of Fraud, all on the same day. Maximum penalty on each, 12 years.
- The Third Indictment – one Count of the unlawful importation of the Class B controlled drug, cannabis resin and the second Count is failing to comply with a disclosure notice, the RIPL offence – maximum penalty on that of 2 years on that.
- There are two cannabis importations to be taken into consideration which we have done.

Your previous record shows referrals to the Convenor for attempted burglary, resisting the Police, criminal damage and drugs possession.

You were initially on unconditional bail for the Second Indictment, but this was made conditional when the First Indictment matters were charged. You were remanded in custody after breaching a bail condition on the 16th October 2019. Timely guilty pleas here were indicated.

We have heard the facts. You made the observation to the Police in your first interview “*hand-writing doesn't prove anything mate*”, which can be taken as a good indication of your attitude. In the second interview there was a prepared statement, in which you offered a grovelling apology ending in the words: “*I can only apologise for what I have done and will never make the same mistake again*”. It is fair also that you admitted other importations.

On 11th October you made the same mistake again, which shows just how reliable the apology was. You were on bail then too.

Your refusal to allow access to your Samsung mobile, which is Count 2 on the Third Indictment, is something we take an extremely dim view of. We have previously stated that sentences need to be higher. People can avoid the consequences of their dealing if this practice carries on. The importations were by post, which we treat as an aggravating factor.

The fraud (Second Indictment) was stealing from your father. As you put it, you misused your “*old Man's card*” 4 days after an arrest. It should be mentioned that in relation to the First Indictment, you provided the code to your mobile and we hear that it contained the phrase “*I fucked up big time ... I mean really fucked up ... me importing weed that's a minimum of 5 years' in prison*”. You should have thought of that.

The First Indictment contained 24.77 grams of cannabis plus your estimate of a further 19 grams. The value based on this is £875.40 to £1,313.10 and a further 56 grams was imported in October, value £1,120.60 to £1,680.

Sentencing Considerations

We have to follow binding guidelines from the Guernsey Court of Appeal.

There are two sets of offences. We will aggregate the importations and select a total as a starting-point which seeks to reflect all the circumstances and indeed we will aggregate everything else as well because that is simpler and reflects the totality of your offending. Afterwards we will then look at whatever mitigation is available. Each case has to be assessed on its own facts and merits.

These were repeated offences after your prepared statement assured everyone about your intentions. The total as a starting-point here is 4 years, noting that the appropriate period for the importation (up to 2 kg) is a band that starts at 3 years and ends at 6 years. We also take into account the two T.I.C.'s (I emphasize the two T.I.C.'s are possession matters) and of course, the fraud offences are factored in.

Mitigation

We have considered your Advocate's submissions, plus the detailed Youth Justice Reports and we note the background, including unfortunately substance misuse and we have read your letter.

The applicable mitigation in this case is your young age, and Youth Detention rather than prison applies, and also your pleas of guilty. But you pose a high risk of re-offending.

These factors combine to give a discount of considerably over one-third. If you were older it would have been less of a discount.

We note all the circumstances set out in the reports and we are treating you fairly. We must note you received a considerable amount of support, but drug misuse has fouled-up your life, early on. We repeat, that notwithstanding resource issues, you should have been placed in appropriate accommodation earlier on.

Sentence

You don't learn from your mistakes and you have a bad attitude. You re-offended after making a crawling apology. We wish to emphasize as well that failing to provide passwords or access to devices is becoming a common offence. Law Enforcement needs that access in order to track down other criminals. It is not to be regarded by defendants as a soft option.

Not only that, but you stole from your father. It is evident that you are unable or unwilling to respond to non-custodial penalties and the offences in totality are so serious that only a custodial sentence is justified. Non-custodial measures don't work in this case. We repeat that on the offences we select a total figure and sentence accordingly:

On the First Indictment:

- Three Counts - 12 months' Youth Detention on each concurrent – total 12 months

On the Third Indictment:

- 18 months' Youth Detention on Count 1 also concurrent – total so far 18 months
- On Count 2 the RIPL offence. In view of what we have said and the reasons we have given - 9 months' Youth Detention, consecutive

On the Second Indictment:

- stealing from "*your old man*" as you put it - 3 months' youth Detention on each, concurrent to each other, and the total.

All that adds up to a **total of 2 years and 3 months' (27 months' Youth Detention)** with effect from the 16th October when you were remanded, having breached bail. The statutory grounds are as given:

- Seriousness of offences
- Inability or unwillingness to respond to non-custodial measures
- The sentence is also in your interest to show you cannot get away with this easily and to provide you with some discipline training in hopefully a clean environment.
- The two T.I.C.'s are possession matters but they have been taken into account in aggregating our total sentence.
- Forfeiture and Destruction Orders, as requested.
- Statutory Supervision after release.
- We strongly emphasize that support needs to carry-on after your release.

Judge J R Finch OBE
Judge of the Royal Court

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