

**ROYAL COURT
FULL COURT**

4th May 2020

**Before: Richard James McMahon, Esq., Deputy Bailiff and:
Stephen Murray Jones OBE, Terry John Ferbrache, David Allan Grut,
Steven John Morris, Joanne Marie Wyatt, Alan Stevenson Boyle,
Tina Jane Le Poidevin, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

Mark Richard GILL

Crown Advocate F M Russell appeared for the Crown

Advocate P Lockwood appeared for the Defendant

DEPUTY BAILIFF:

Background

Mark Gill, you have pleaded guilty to an indictment containing a single Count of supplying cannabis, a Class B controlled drug, to another, contrary to section 3 of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974. This Count carries a maximum penalty of 21 years' imprisonment.

The offence took place on 5 June 2019 at the States' Prison. We have seen the CCTV of what happened. At the end of your visit with a serving prisoner, you passed something to him, which was spotted by prison officers who found the prisoner to have received what turned out to be 1.68 grams of cannabis resin wrapped in cling film. The street value is put at between £33.60 and £50.40 but that is largely irrelevant given that no one knows the real value within the Prison itself.

You are a 45-year-old local man. You were sentenced by this Court as recently as 25 January 2017 to two years' imprisonment for being knowingly concerned in importing a little over ¼ kg of cannabis. Both before your time in custody and since your release you have had a good work ethic, now running your own welding business.

You have been on unconditional bail throughout these proceedings.

Sentencing Considerations

As you are well aware from your appearance in 2017, sentencing guidelines for drug trafficking offences, which includes supplying to another, were established by the Court of Appeal in the case of Richards. For the lowest band in respect of cannabis, a suggested starting point is given of between

three and six years' imprisonment. We are, therefore, satisfied that the custody threshold is passed here.

Given the small quantity involved, the Court has considered an appropriate starting point. This cannabis was not for your own personal use and the Court has no way of knowing whether it was to be for the sole use of the person to whom you passed it or whether, as seems more likely, it would have been shared out more widely. Accordingly, we take a starting point of 2 years' imprisonment.

Supplying cannabis to a serving prisoner is, in the Court's view, a very significant aggravating factor in this case. As you fully understand, the approach the Court takes to drug-related offending is that the Bailiwick should ideally be free from all unlawful drugs. Too many of those in the Prison have failed to heed that message. It does not help with the rehabilitation of any prisoner if drugs find their way into the Prison. However small the amount, it will have a detrimental effect on the Prison regime and constitutes a serious abuse of the privilege of being able to visit at the Prison. This is a factor resulting in quite a considerable increase in the sentence we have in mind, in the order of at least 12 months.

Your recent conviction for another drug trafficking offence is a further aggravating factor, because it shows you have not learnt your lesson.

Mitigation

The Probation Report in respect of you is a very full one and, along with what Advocate Lockwood has said on your behalf, has been of considerable assistance to the Court. We have noted, in particular, that you are assessed as presenting a medium risk of re-offending and that, although some concerns are expressed about you, there is apparently no risk of serious harm to the public. All relevant matters have been taken into account by the Court when reaching its sentence.

We give you full credit for the guilty plea you entered at the earliest opportunity.

However, the circumstances in which you say you came to commit this offence do not assist you very much. Even if your motivation in doing what you were instructed to do was fear and the desire to protect your family, you knew full well that those who peddle drugs prey on others to carry out their dirty work for them and those who do that must be prepared to take the consequences when caught. As has been pointed out previously, where pressure is exerted on someone, it is up to the individual concerned to decide what the right thing to do is and this Court, as endorsed by the Court of Appeal, regards it as a matter of public policy that those carrying drugs for others cannot mitigate their conduct by praying in aid their own vulnerability to persuasion by those who have recruited them. Accordingly, whilst we take note of these circumstances, they do not have any significant impact on the outcome.

We recognise that you have expressed remorse and that there are others, especially your son and your parents, noting the letter from your mother, who are now affected by your decision to commit this offence. Your son, though, is an adult and so the effects are different than if he were a minor dependent upon you providing care to him.

We are satisfied that there is some strong personal mitigation here and the main question we have had to resolve is whether it is sufficient to lead to anything other than an immediate custodial sentence, as urged upon us by Advocate Lockwood.

Sentence

Mr Gill, what you did was extremely foolhardy. You have recent personal experience of how this Court deals with drug offenders yet, despite that, you took drugs into the Prison and handed them over to an inmate. One of the reasons for imprisoning those who take drugs is to force them to kick their habits. The Prison is one place where the community expects it to be drug-free, so we find that your actions were intended to undermine that expectation.

In all these circumstances, this Court considers that only a sentence of immediate custody is warranted in order to impress upon you the absolute need to stay away from anything to do with unlawful drugs and to serve as a deterrent to others. Being as lenient as we can, principally because the amount of cannabis supplied was small, the sentence imposed today is one of 18 months' imprisonment.

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 sought by the Crown in respect of the cannabis are also granted and there has been no request on behalf of Her Majesty's Procureur for a drug trafficking investigation.

Richard McMahon
Deputy Bailiff

4th May 2020