

Importation of Class A and Class B drugs in contravention of the prohibition on importation imposed by section 2 (1)(a) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974.

[2020]GRC023

**ROYAL COURT  
FULL COURT**

**4<sup>th</sup> May 2020**

**Before: Richard James McMahon, Esq., Deputy Bailiff and:  
Claire Helen Le Pelley, Terry John Ferbrache, David James Mortimer,  
Peter Francis Gill, Stuart Michael Crisp, Marilyn Jasmine King, Paul Martin Burnard,  
Jurats.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**John Patrick GLYNN**

**Crown Advocate F M Russell appeared for the Crown**

**Advocate S E Steel appeared for the Defendant**

**DEPUTY BAILIFF:**

**Background**

John Glynn, you have pleaded guilty to an indictment containing two Counts of being knowingly concerned in the fraudulent evasion of the prohibition on importation of a controlled drug in contravention of the prohibition on importation imposed by section 2 (1)(a) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974. The first Count relates to MDMA, or ecstasy, a Class A drug, for which the maximum sentence is life imprisonment, and the second Count relates to cannabis resin, a Class B drug, in respect of which the maximum sentence is 21 years' imprisonment.

The offences took place on 15 December 2019 when you arrived by air and your luggage and that of your adult son, with whom you were travelling, was found to contain 959 grams of cannabis and 1,339 MDMA tablets. The cannabis was concealed behind the liner of your suitcase and the tablets had been wrapped and secreted inside bottles of toiletries, two of which you packed in your son's bag, unbeknownst to him. The street value of the MDMA is between £26,780 and £40,170 and of the cannabis is between £19,180 and £28,770.

You are a 51-year-old Englishman. You have a number of previous convictions, mostly for offences of violence, but had managed to stay out of trouble for around 10 years. You have been in employment most of your life, largely in the construction industry, but you lost your most recent job some months before the offence due to the level of your drinking.

You have been in custody since you were first detained on 15 December 2019.

**Sentencing Considerations**

The approach to sentencing for a drug trafficking offence committed here in Guernsey is different from in England, where the Court of Appeal in *Richards* set out sentencing guidelines that this Court follows. The importation of two different drugs is covered in para. 12 of that decision:

*“It is a feature of some cases that two different drugs are imported at the same time, both in significant quantities. It may be two different Class A drugs or a Class A drug and a Class B drug. In such cases, the combined quantity is a relevant factor in determining the extent of the criminal conduct, which must be greater than if only one drug was imported. In such cases, the court should assess the appropriate starting point in respect of each of the drugs and then determine a ‘total’ starting point, taking into account the overall quantity. Thereafter the mitigation will be applied to arrive at the actual sentences to be imposed. The court therefore provides for the total length of sentence by imposing a greater term of imprisonment than would otherwise have been imposed for the more serious of the two offences (if such can be identified) to run concurrently with the other sentences imposed. Consecutive sentences should not normally be imposed in such cases, since that may create a misleading impression that each offence is being sentenced more leniently than it is. The court must state in any such case both what the court considers to be the appropriate ‘total starting point’ and how it is arrived at.”*

In respect of Count 1, and the 1,339 MDMA tablets, the range of starting points for such an offence of between 1,000 and 2,500 tablets is put at between 9 and 12 years’ imprisonment. In respect of Count 2, the cannabis resin, the range of starting points for up to 2 kg is three to six years’ imprisonment. This was, therefore, quite a significant importation. The custody threshold is clearly passed. Count 1 is clearly the more serious offence and the importation of a second drug aggravates that offence. The quantities involved put the tablets towards the bottom of that band and, if it were the only drug involved, would result in a starting point of at least 10 years, and with the cannabis being roughly in the middle of its own band, although we stress that this is not an arithmetic process that is being undertaken, and so the Court takes as its total starting point a sentence of 12 years’ imprisonment.

Although it may have been the work of others, we find that there was a degree of sophistication in the manner of hiding the tablets, about which you took steps to spread the risk of detection and which we consider is an aggravating factor in your case.

### **Mitigation**

The Court has carefully considered what has been written about you in the realistic Probation Report and what Advocate Steel has said on your behalf. We have read what you have written in your own letter to the Court, and the way in which you have indicated your intention to mend your ways and the remorse you have expressed. We have also read the letters from your family and former employer. Your family are, of course, affected by what you have done and you should have thought about that before embarking on this course of action.

From the Report, we have noted, in particular and with some concern, that you are assessed as presenting a very high likelihood of re-offending, although this appears largely to arise from historic matters over which you now have no control and, if you do address those problems, there is scope for that assessment to reduce to a moderate risk. More positively, there is apparently no risk of direct physical harm to others.

However inevitable they were, given that you were caught red-handed, we give you full credit for the guilty pleas you entered at the earliest opportunity and for how you co-operated once caught.

The explanation of the background to you committing this offence shows just how much others can exert pressure on those who run up drug debts. We note that you carried out this importation with a view to clearing a debt of some £1,500 and to meet your expenses. The surprise you expressed when told the street value of what you were carrying perhaps shows the extent to which you were duped. As has been pointed out previously, though, where pressure is exerted on someone, it is always up to the individual concerned to decide what the right thing to do is and the Court of Appeal has endorsed the view that it is 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.

## **Sentence**

John Glynn, the enormity of what you have allowed yourself to get mixed up in must have dawned on you by now. If, as you say, you have learnt your lesson, it is better that that lesson be learned later than never at all. Bringing any drugs into the Bailiwick is viewed most seriously by this Court, but especially where Class A drugs are involved. This was a pretty large consignment and the tablets especially were concealed with a view to avoiding detection. You knew full well that what you were doing was wrong and we find that you planned to use your son as a form of decoy because you knew if you were stopped travelling alone the quantity of toiletries you had meant the game would be up. Getting him involved and exposing him to risk was a particularly callous thing for you to do. The Court remains of the view that the sentences it imposes should act as a deterrent to others so as to rid the Bailiwick of the scourge of unlawful drugs and the misery they bring with them. Aside from your guilty pleas, there is little else by way of mitigation.

In respect of these two serious offences, there is no alternative other than an immediate custodial sentence.

For Count 1, the MDMA, the sentence we impose is one of 8 years' imprisonment, which runs from when you were first detained on 15 December 2019.

For Count 2, the cannabis, the sentence we impose is one of 2½ years' imprisonment, running from the same date and which will be made to run concurrently to the sentence on Count 1.

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 tablets, the cannabis and all of the packaging listed, which were not opposed, are also granted.

The Court will also grant the application under section 12 of the Drug Trafficking Law requiring you to provide information as sought in that application. This has not been opposed by you.

Reference was made to the period of time that you should be allowed to respond to that application and we have decided that you will have 42 days in which to respond, after which the Crown will have a further 28 days from receipt of the information you provide to file the section 11 statement, with there then being a further 28 days for your response to it and the matter will return for review at a Plea and Directions Hearing to be listed in just over the three months, most probably on 20 August 2020.

**Richard McMahon**  
**Deputy Bailiff**

**4<sup>th</sup> May 2020**