

Importation of Cannabis resin and Cannabis, Class B controlled drugs in contravention of the prohibition on importation imposed by section 2(1)(a) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 and possession of Cannabis resin, contrary to section 4(1) of the same law

[2020]GRC030

**ROYAL COURT
FULL COURT**

27 May 2020

**Before: Gary Perry, Esq., Lieutenant Bailiff and:
Stephen Murray Jones OBE, Terry John Ferbrache,
David James Mortimer, Joanne Marie Wyatt, David John Robilliard,
Marilyn Jasmine King, Felicity Jane Quevatre-Malcic Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

CHRISTOPHER THOMAS CARRE

Crown Advocate C G Dunford appeared for the Crown

Advocate S E Steel appeared for the Defendant

LIEUTENANT BAILIFF:

Background

You have pleaded guilty to an Indictment containing three counts. Two of being knowingly concerned in the importation of Cannabis resin, Count 2, and Cannabis, Count 1, Class B controlled drugs in contravention of the prohibition on importation imposed by section 2(1)(a) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974. In addition, there is a single count of simple possession of Cannabis resin, contrary to section 4(1) of the same law.

The maximum sentence for the importation offences is one of 21 years' imprisonment and 10 years for the possession offence. The quantities involved are as follows:

- 151.76 grams of cannabis resin – Count 2
- 2.99 grams of cannabis – Count 1
- 62.73 grams of cannabis resin – Count 3

The drugs have an estimated street value of between £3,095 and £4,642 for the drugs you imported and £1,254 - £1,881 for those found at your home. You are a 49 year old local man who was unemployed at the time of these offences. You were apprehended on the 29th November of last year and have been on conditional bail throughout these proceedings. You have an unenviable criminal record, but it is worthy of note that you have not been before a court for some 10 years and have not been convicted previously of any drug related offences. The circumstances of this Indictment are that you travelled into Guernsey airport on a flight from London Gatwick on the evening of Friday 29th November of last year. You were stopped and questioned by customs officers, declaring that you were not carrying any controlled substances. You said you had been in the UK for a medical appointment. As a result of further questioning and an ION scan test, you were informed that you

were being detained for a search. On being told this, you immediately admitted you were carrying Cannabis strapped to your groin area. The drugs I have already referred to were then recovered. During a subsequent search of your home address, the Cannabis relating to Count 3 on the Indictment was recovered.

Sentencing Considerations

The approach to sentencing in drug trafficking cases in Guernsey is set out by the Court of Appeal in the well-known case of Richards. We emphasise that we are bound to follow that clear guidance and we have done so in this case. We are obliged to select a starting-point from the guidelines before then considering any relevant mitigation. We are clear in this case that the custody threshold has been passed on the facts we have heard. Neither in our view is this a case involving only a small amount of Cannabis, as set out at paragraph 14 of Richards. Even if only for your personal use, the drugs in this case are not, in our view, a small quantity by any stretch of the imagination. Although Counts 1 and 2 are separate on the Indictment, they both involve the same transaction and we have treated them as such when assessing the starting point. We have not however increased the starting point because there are two types of Cannabis. The quantities of drugs in Counts 1 and 2 places you firmly in the 3-6 year sentencing bracket, even if at the lower end of that bracket. We emphasize the drugs found at your home address do not come into that calculation.

Taking all relevant factors into account we have come to the conclusion that a combined starting point of 3 years is justified in this case, in respect of Counts 1 and 2. In respect of Count 3 and bearing in mind the quantity involved, we take a starting point of 3 months, due as I have said, to the quantity of Cannabis resin.

Mitigation

We have carefully considered what has been ably said on your behalf by your advocate and the contents of the helpful pre-sentence report. We have also read and taken full account of the letter from your GP and your own letter to us. Although not initially fully open with Customs Officers, you soon after fully admitted you had the drugs in question, but in our view you had little choice but to do so, knowing you were about to be searched. You did however give the location of where further drugs could be found at your home address. We give you full credit for your guilty plea, entered at the first available opportunity you have had. You have wasted nobodies time in bringing this case to a conclusion. Although, as we have said, you have a poor record of offending, you do deserve credit for the fact that you have not appeared before a court for some 10 years. We also note that this is not one of the larger quantities of Cannabis that come before the court, having been imported into this Island. We do note however that you are assessed as having a high likelihood of general reoffending, but are not considered a physical or sexual risk to other members of this community. We accept your explanation that these drugs were for personal use and the reasons why you were taking Cannabis. We cannot however condone such behaviour – you were flouting the law by doing this and adding to the stock of drugs on the Island. Breaking the law for pain relief is not an excuse in this jurisdiction. There were other options you could have pursued but you chose to break the law. The fact that you sought out a drug dealer in the United Kingdom to keep down your own costs and obtain what you believed would be better quality, shows a level of preplanning and disregard for the seriousness of what you were about to do. The custody threshold, as I have already indicated and your advocate conceded, is clearly crossed in this case.

Sentence

Bringing any drugs into this Bailiwick is viewed very seriously by this court as we have said time and time again. Although not the largest quantity of Class B drugs this court deals with, 154 grams is, nevertheless, a concerning amount of drugs to be bringing in, even if for your own consumption. You

knew what you were doing was wrong, but nevertheless you sourced the drugs in the United Kingdom and brought them back to this Island. You took a calculated risk, hoping that by strapping the drugs to your groin, you wouldn't be detected. Thanks to the vigilance of our customs officers you were caught out. Even in a case such as yours, people need to be deterred from thinking it is worthwhile taking the risk that you took in. In our view, in respect of these three offences, there is no alternative other than an immediate custodial sentence. Taking into account everything I have outlined and bearing in mind the totality principle:

- in respect of Count 2, the larger quantity of Class B drug, the sentence of the Court is 2 years' imprisonment;
- in respect of Count 1 – 2 years' imprisonment but concurrent and;
- in respect of Count 3 – 2 months' imprisonment again concurrent;
- making a total of 2 years' imprisonment.

We take into consideration the TIC that was read to you and you accepted earlier this afternoon in respect of a small quantity of Cannabis. I must tell you that in accordance with section 1 of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004 upon your 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 the lesser. If you fail to comply with your supervision conditions, you will be liable to further imprisonment, a fine or both. We order the forfeiture and destruction of the drugs in accordance with the applications made by the Prosecution. In respect of the £540 cash found at your home, we do not necessarily accept your explanation for this money, but neither do we think the Prosecution's application using the Police Property Law is an appropriate way of dealing with this and the option of confiscation proceedings would be the correct way of pursuing this money.

Gary Perry
Lieutenant Bailiff

27 May 2020