

Attempt to unlawfully export the controlled drug Cannabis Resin and possession of the
aforementioned drug.

[2020]GRC042

**ROYAL COURT
FULL COURT**

17 July 2020

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff, and:
Claire Helen Le Pelley, Terry John Ferbrache,
Jonathan Grenfell Hooley, Steven John Morris, David James Mortimer,
Joanne Marie Wyatt, Stuart Michael Crisp,
Tina Jane Le Poidevin, Felicity Jane Quevâtre-Malcic, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

Paul PHILLIPS

Advocate R Calderwood appeared for the Crown

Advocate L Roffey appeared for the Defendant

LIEUTENANT BAILIFF:

Background

You appear here for sentence today on an Indictment containing 3 counts:

- Count 1, which is much more serious than the others, concerns the attempt to unlawfully export the controlled drug, cannabis resin. The amount was very large indeed – 40.25 kilos, street value in Guernsey around £800,000 to £1,200,000, but considerably less, though still a lot, in the UK. The maximum sentence is 21 years' imprisonment.
- Counts 2 and 3 are simple possession of the drug. Maximum 10 years on each.

You are a 45 year old local man with a record, including 7 years for manslaughter in 2007 and 12 months for burglary in 2017. There are also drugs possession matters, where non-custodial penalties were imposed.

You were caught on 29 January 2020 at the Harbour; the drugs were concealed in the BMW you were driving. You have been in custody since arrest and the Covid-19 outbreak has contributed to adjournments. You indicated early guilty pleas and the main offence involves 409 bars of cannabis resin.

Sentencing Considerations

Your able Advocate will have told you that we are governed generally by the guidelines set-out by our Court of Appeal in the case of Richards. For the quantity of the drug 30 kg plus, the starting point is 11 years plus. We need to select on that case an appropriate starting-point and then apply relevant

mitigation. English guidelines are always looked at, but are of course not binding. The case of Richards specifically superseded earlier decisions. We carefully note paragraph 9 of that decision. We sentence on the considerations we find relevant; consistent with Richards.

The helpful Probation report indicates that you say you were to be paid £2,000, but declined, later agreeing £4,000. It seems a sale-or-return affair, according to your account. It is unique in our experience to find a commercial quantity of drugs being exported from Guernsey and it was allegedly to procure a refund for inferior quality drugs.

The huge amount was to be exported by you for reward, which you never got. We take all the circumstances into account, principally the quantity, and start at 12 years. The other matters will be concurrent.

Mitigation

We have carefully noted all your Advocate has said on your behalf. Turning again to the Probation report, it is noted that cannabis use has been detrimental to your longer-term abilities, as it says, 'to navigate your way through life'. You could have engaged more with Mental Health Services. You accept your judgment has been impaired by misuse of cannabis. We note your work record. You are part of a population that presents, it is said in the report, a very high likelihood of reoffending. You had a very hard start to life, as I personally recall, and as shown in the Probation report.

The guilty plea was pretty much inevitable in the circumstances, but you did not waste the Court's time with a nonsensical denial, so we are encouraged to give you a discount. We give you a significant discount. Our discount reflects exceptional personal mitigation in this case, peculiar to this case, and is not a precedent and, will be just under one-half. Sentencing we stress, is not just a mathematical exercise, we have considered all the individual facts of this case.

Sentence

As you said to the officers, you were banged to rights and "*I know what I'm looking at for this*". The misuse of cannabis has tainted your life, whilst we feel very sorry for the circumstances of your childhood, this remains a serious matter. The amount was more than considerable, in terms of local cases, it was immense. The fact it was for export, is however a relevant consideration.

Taking everything, we hope fairly, into account, the sentence on Count 1 is 6 years and 6 months' imprisonment from 29.01.2020 and concurrent sentences of 1 month on Counts 2 and 3.

- Total: 6 years 6 months' imprisonment.
- You will be subject to Statutory Supervision on release.
- Forfeiture and Destruction Orders, as requested.
- D/T timetable as agreed.

**John Russell Finch, Esq., O.B.E.,
Lieutenant Bailiff**

17 July 2020