

Unlawful importation of Cannabis, a controlled Class B drug, possession of Cannabis and failure to comply with a Notice served requiring the disclosure of information.

[2020]GRC045

**ROYAL COURT
FULL COURT**

28 July 2020

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and:
David Allan Grut, Jonathan Grenfell Hooley, Steven John Morris,
David James Mortimer, Joanne Marie Wyatt, David John Robilliard,
Stuart Michael Crisp, Marilyn Jasmine King, Felicity Jane Quevâtre-Malcic, Jurats.**

THE LAW OFFICERS OF THE CROWN

- v -

**Thomas Hayden BATISTE
&
Phillipe Michael LE MOIGNE**

**Advocate J D McVeigh appeared for the Crown
Advocate P F Cobb appeared for the First Defendant
Advocate L Roffey appeared for the Second Defendant**

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on an Indictment containing 3 Counts. Count 1 is a joint charge for being concerned in the unlawful importation of cannabis, a controlled drug of Class B. The maximum penalty is 21 years' imprisonment.

Counts 2 and 3 are in relation to Mr Batiste alone. Count 2 is possession of cannabis, maximum penalty 10 years' imprisonment and Count 3, failing to comply with a Notice served on you requiring the disclosure of information, maximum penalty of 2 years' imprisonment.

Mr Batiste is a local man, now aged 35. There are a number of previous older convictions, including disorderly behaviour, and possession of drugs in 2004 and 2008, where fines were imposed. Mr Le Moigne is also a local man, whom we treat as of previously good character.

You have both been on conditional bail. Timely guilty pleas were entered.

We have heard the facts in full detail, augmented by the helpful Probation reports. Mr Le Moigne was employed by a freight company (Profreight) and committed the offence during the course of his work. You were both 'caught in the act'. Mr Le Moigne allowed the drugs through the port - it was all planned and passed on. Mr Le Moigne expected to receive £12,000 for his role. There was, we have heard, £5,095 and £39,990 seized at home.

At a search of Mr Batiste's home, a small amount of herbal cannabis was found. Mr Le Moigne, we note, was seen securing the box containing the drugs, which had been marked with a 'cross'. The box was secured in Mr Le Moigne's vehicle and passed over to Mr Batiste.

Later on, Mr Batiste was asked if he was willing to give his PIN code to officers, and replied "No I'm not". This was, we saw, to protect other persons. The box contained 9,681 grams, local street value we are told of £193,620 to £290,430. On what we have heard, as stated, Mr Le Moigne was doing it for a large monetary reward and we are told, Mr Batiste allegedly for some herbal cannabis.

Sentencing Considerations

As you know, (we are sure your learned counsel have told you), we are bound by Court of Appeal guidelines in the case of Richards. For the amount of 5-10 kg of cannabis, the band of sentences as a starting-point is 7-10 years. We have to select a starting-point and then consider applicable mitigation.

We are struck by the shameful betrayal of trust by Mr Le Moigne as regards his employer. The betrayal leads us to say that despite effectively previous good character, his role deserves a higher starting-point. The amount is near the top of the scale so we start at 10 years' for Mr Le Moigne to reflect his role and 9 years for Mr Batiste. The PIN is an additional matter which we will deal with shortly.

Mitigation

We have carefully noted the submissions of your Advocates, read the Probation reports and the letters. We are obliged to give a discount to mark your 'guilty' pleas. Factoring all the relevant details in, we mercifully afford a one-third discount to Mr Batiste and slightly under for Mr Le Moigne.

There is no mitigation on the PIN offence, apart from the inevitable 'guilty' plea.

Sentence

As stated, we are bound to observe the definitive guidelines set-out by the Guernsey Court of Appeal. This was a deliberate, significant offence motivated by gain. Mr Le Moigne has worked for his employer for 17 years, which he has now wasted.

The PIN refusal is an increasingly frequent offence. If it is worthwhile for people to refuse to provide details to investigators, it will carry-on. We have said more than once in other cases that we will increase the sentence where appropriate and we do so now. We note that Mr Batiste also chose to throw his mobile on a concrete floor, we are told, with great force earlier on. The information there would have helped Law Enforcement both in potentially apprehending offenders and certainly for intelligence. But the choice was made, so the consequences now follow.

- On Count 1, (the joint charge), in respect of **Mr Le Moigne**, the sentence is 6 years and 9 months' imprisonment from today. On Count 1, in respect of **Mr Batiste**, the sentence is 6 years' imprisonment from today.
- On Count 2, for **Mr Batiste**, the sentence is 2 months' imprisonment concurrent on the possession.
- On Count 3, for the reasons we have just given a moment ago, the PIN offence, 9 months' imprisonment consecutive.
- This reckons out at **6 years and 9 months' imprisonment** for **both of you from today**.
- Forfeiture and Destruction Orders as requested.
- Drug Trafficking timetable as agreed.

- Statutory Supervision after release.
- The Order sought under Section 12 of the Drug Trafficking Law is made.

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

28 July 2020