

Supply of a controlled drug, cannabis, to another, contrary to section 3(3)(b) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended and possession of cannabis, contrary to section 4(2) of the aforementioned Law.

**[2020]GR052**

**ROYAL COURT  
FULL COURT**

**13 August 2020**

**Before: Richard James McMahon, Esq., Bailiff and:  
Claire Helen Le Pelley,  
David Allan Grut, Jonathan Grenfell Hooley,  
David James Mortimer, Joanne Marie Wyatt, David John Robilliard,  
Stuart Michael Crisp, Tina Jane Le Poidevin, Felicity Jane Quevatre-Malcic, Jurats.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**Shane Tristan TOPLEY  
&  
Abbie SAUNDERS**

**Advocate J McVeigh appeared for the Crown  
Advocate P Lockwood appeared for the First Defendant  
Advocate S Steel appeared for the Second Defendant**

**BAILIFF:**

**Background**

Shane Topley and Abbie Saunders, you have both pleaded guilty to two Counts on the Indictment. The more serious Count in each case relates to you being concerned in the supplying of a controlled drug, cannabis, to another, contrary to section 3(3)(b) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended. This offence carries a maximum penalty of 21 years' imprisonment (which would mean, in Ms Saunders' case, youth detention). The other Count relates to possession of cannabis, contrary to section 4(2) of the 1974 Law, which carries a maximum penalty of 10 years' imprisonment.

Your offending came to light when a search warrant was executed on 2 May 2019 at the premises where you lived. Four larger pieces of cannabis and another lump and some fragments, together totalling 179.7 grams, and a quantity of cash were found in a pink washbag. Some smaller amounts of cannabis were also discovered. The aggregate street value is put at between £3,638.80 and £5,458.20. Digital weighing scales, typical drug dealing paraphernalia, and some documentation, which we accept appears to be a log of sales and other notes associated with dealing, were also located in the premises. The full extent of your activities is unclear, but the Count takes 17 April 2019 as its start point and so covers around a fortnight. Although separate Counts have been put for this offending, the Court treats your activities as being a joint enterprise in which you were both equally involved.

The two of you have been in a relationship for a couple of years. Mr Topley is a local man, aged 23 at the time of the offence, now 24. He has generally been in employment, although has had periods

signed off from work due to mental health issues. He has a family comprising three young children from a previous relationship, with whom he has regular contact and, despite his assertions, we consider that he is not their main carer. Ms Saunders was just 17 at the time of these offences and is now 18. She has been in Guernsey for her school years, but appears to have had a troubled education and has not worked very much since leaving school. Both of you have recently secured work with a cleaning company, although that has not yet commenced and so you remain in receipt of benefits. The Court will treat each of you as having no previous relevant convictions.

Both of you have been on unconditional bail throughout these proceedings.

### **Sentencing Considerations**

When it comes to sentencing for being concerned in the supply of cannabis, a drug trafficking offence, this Court has regard to the guidelines set by the Court of Appeal in 2002 in *Richards*. We are looking solely at the offending here, principally the quantity of drugs involved and the role in the commission of the offence. We have reminded ourselves of paragraph 5, which emphasises that these are no more than general guidelines only and that sentencing is an art and not a science.

The range given as the starting point for cannabis of up to 2 kg is 3 to 6 years' imprisonment. Although the precise amount involved is unknown, we are satisfied from the length of the dates specified in the Counts and the list of apparent dealing that this is the applicable range for you.

As regards the possession offence, we consider that this adds little more to the more serious Count and propose to deal with that in the manner we will explain later.

Although we conclude that the extent of your dealing was at the lower end of this range, we note the view in the Probation Report that involvement in dealing is rarely committed for anything but financial gain. That may arise where, as is suggested here, the dealing is intended to support your own use of cannabis, which indirectly produces a benefit to you by making the drugs consumed appear to be available freely rather than being received in return for making a specific payment to another for what you will then consume. However, we still regard the motivation as being driven by financial considerations. There has also been no suggestion that your involvement in this venture arose under direction of another, or resulted from any form of pressure being exerted on you, although there has we find, been a degree of naivety.

Taking all these considerations into account, the Court is satisfied that the custody threshold in respect of this more serious Count has been passed and so, before considering the mitigation advanced on behalf of each of you, the starting point will be one of 3½ years' imprisonment or, as the case may be, youth detention.

### **Mitigation**

The Court has considered carefully the realistic and helpful Probation Reports prepared in respect of you. We have also listened to what has been said on your behalves by your Advocates and read the materials provided, particularly the letters from both of you and your family and friends and the way that that has reflected on both of your lives, historically and now.

We have noted from the reports that there is a medium risk of you re-offending, although this primarily relates to historical matters over which you have no control. Maintaining abstinence from controlled drugs, as you both now promise is the case and will be your future intention, will inevitably assist in reducing those risks yet further. Neither of you poses any real risk of causing harm to others.

Because both of you pleaded guilty, effectively at the earliest opportunity, we will give you full credit for those pleas.

We have concentrated on the areas where it has been suggested to the Court that there is hope that you will not re-offend and that you now recognise just how utterly stupid you have been. We take into account that you have expressed your deep regret at having taken a wrong turn. Neither of you has had the easiest of lives but that is often the case for offenders appearing before this Court. Additionally, we have to balance your misplaced views about self-medicating through cannabis use rather than seeking proper medical assistance against those personal histories. We appreciate that you have faced mental health difficulties and that those problems may have had an adverse effect on how you exercised your judgment at the relevant time. We have paid particular regard to the fact that the authors of the Probation Reports do not consider that you will benefit from any form of ongoing supervision or intervention in respect of your drug use.

We further recognise that you are both young, and particularly so in Ms Saunders' case, and that you will have to live with this significant loss of good character as you mature into full adulthood.

### **Sentence**

Shane Topley and Abbie Saunders, in a free society, everyone is entitled to hold and express their views on whether recreational cannabis use should be dealt with differently from how it currently is but, until the legislature makes any such changes, the role of this Court is to deal with matters coming before it consistently and in the light of the guidance established by the Court of Appeal. This Court takes the view that those who have been brought up here can have no excuse for not realising what happens when unlawful drugs are supplied to others. Every person playing a role in that supply chain has to be prepared to take the consequences when caught. As comparatively long-term users of cannabis, despite being comparatively young, you have chosen to take a huge risk through branching out into dealing cannabis. That risk has backfired and your decision to embark on drug dealing appears to the Court to have been motivated through the financial gain you believed would follow.

This Court regards the dealing offences as being sufficiently serious that only a custodial sentence can be imposed. However, rather than send you into custody today, the Court will suspend the sentence it considers appropriate for this offence. We do that because we consider that in both of your cases there is a realistic prospect that you are now, or shortly will be, sufficiently mature finally to have learned your lesson and so can be rehabilitated without being incarcerated.

The Court has had particular regard to the consequences for Ms Saunders of being given a term of immediate youth detention and, because of the fact that Mr Topley would also be affected, has borne that in mind when deciding how to deal with you both.

As we will now explain, we have tailored our sentences appropriately. We are taking this exceptional route in your cases where each of you should recognise just how close you have come to going to Les Nicolles today. Because we believe you should both have the last opportunity to further what we are told you intend to do, now that you have learned your lesson, so as not to come before our Courts ever again, you really should not waste this opportunity.

- In respect of Count 1, relating just to **Mr Topley**, the sentence we impose is one of 2 years' imprisonment but that will be suspended for a period of 3 years. That is the maximum suspended sentence available.
- In respect of Count 2, relating just to **Ms Saunders**, the sentence we impose is one of 18 months' youth detention, again suspended for a period of 3 years.

In reaching that decision, this Court is obliged to consider the provisions of the Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990. We are satisfied that this offence is so serious that a non-custodial sentence cannot be justified and by way of further explanation, we have found more by way of mitigation in relation to Ms Saunders than Mr Topley, primarily resulting from her age, which is why this is a shorter custodial term in her case.

Neither of you will have to serve this suspended sentence of imprisonment or, as the case may be, youth detention, unless during the next 3 years you are convicted of an offence punishable with imprisonment. If you are convicted of such an offence, you will be liable to serve all or part of those sentences. A suspended sentence is not a let off. It will hang over your heads for that period of time whilst you mature and those will be the consequences, so please don't forget that.

- In respect of Count 3, as it relates to both of you, and adopting what Advocate Lockwood suggested, we will combine your suspended sentences with a Community Service Order for the possession offence and the sentence we impose on each of you is that you perform 50 hours of unpaid work and that sentence in respect of each of you is being imposed as a direct alternative to a custodial sentence of 1 month imprisonment or youth detention, as the case may be, for that discrete offence.

Those orders are being made because of the seriousness of the offence for which you have been convicted, taking into account the totality principle. In this way it means that you are being offered an opportunity to make a positive contribution to the community through unpaid work and giving something back at the same time as facing the suspended sentence of imprisonment or youth detention.

The Court is satisfied in both of your cases that you understand the nature and effect of a Community Service Order which includes the power of the Court to review the order and the consequences that may follow if either of you were to fail to comply with any requirements of the order imposed on you, or if you are convicted of a further offence while the order is in force. We understand that you have indicated your willingness to be made subject to such an order.

Finally, the Forfeiture and Destruction Orders sought by the Crown in respect of all the cannabis resin which were not opposed, are granted.

The Crown's application pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006 in respect of the black iPhone 4s is also granted and the Court notes that this was not resisted by either of you. In any event, the Court is satisfied that this phone was lawfully seized and that it had been used for the purpose of committing or facilitating the commission of an offence. The Court has, as required by subsection (5), had regard to the nominal value of that property and the likely financial and other effects on both of you of making the order before deciding to grant the Crown's application.

**Richard J McMahon**  
**Bailiff**

**13 August 2020**