

Unlawful importation of the Class B controlled drug cannabis resin, offering to supply cannabis resin, conspiracy to supply cannabis resin and possession of cannabis resin.

[2020]GRC053

ROYAL COURT  
FULL COURT

14<sup>th</sup> August 2020

Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and:  
Terry John Ferbrache, Jonathan Grenfell Hooley, Steven John Morris,  
David James Mortimer, Alan Stevenson Boyle, David John Robilliard,  
Stuart Michael Crisp, Marilyn Jasmine King, Felicity Jane Quevâtre-Malcic, Jurats.

THE LAW OFFICERS OF THE CROWN

- v -

Dylan James Christopher JENKINS  
&  
Stephen Roy JENKINS  
&  
Daniel Stephen GATES  
&  
Jack William GATES

Advocate R J Calderwood appeared for the Crown  
Advocate F Warrilow appeared for the First Defendant  
Advocate C J Green appeared for the Second Defendant  
Advocate S E Steel appeared for the Third Defendant  
Advocate M P Priaulx appeared for the Fourth Defendant

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on an Indictment containing four Counts:

- Count 1 - **Dylan Jenkins and Stephen Jenkins**. Being knowingly concerned in the unlawful importation of the Class B controlled drug cannabis resin (“the importation count”). Maximum penalty 21 years’ imprisonment;
- Count 2 - **Jack Gates**. Offering to supply cannabis resin. Maximum penalty 21 years’ imprisonment (“the offer count”).
- Count 3 - **Dylan Jenkins, Daniel Gates and Jack Gates**. Conspiracy to supply cannabis resin (“the conspiracy count”). Maximum sentence 21 years’ imprisonment.
- Count 4 - **Stephen Jenkins**. Possession of cannabis resin. Maximum sentence 10 years’ imprisonment (“the possession count”).

**Dylan Jenkins** is now 21, 20 at the relevant time. We treat him as of effectively previous good character.

**Stephen Jenkins** is Dylan’s father, 51 now, 50 at the relevant time. There are previous convictions, including drug matters, but ending in 1998. We note the period of non-offending since then.

**Jack Gates** and **Daniel Gates** are brothers. We treat both of them as effectively of good character. They are 26 and 25 years old now, 24 and 23 at the relevant time.

The case involves a postal importation of a bar of cannabis resin, weight 244.40 grams that was intercepted by the Customs Authorities. Guernsey street value £4,888 to £7,332. The possession of cannabis (Count 4) relates to 5.41 grams, value £108.20 and £162.30. We agree that this should be treated simply as a personal use amount.

The Prosecution have given us a commendably full account of the facts behind the various charges. Indeed a number of messages were detected by the High Tech Crime Unit which we have seen. They include dialogues between Dylan Jenkins and his father Stephen; and between Dylan Jenkins and Daniel Gates and Dylan Jenkins and Jack Gates. The text messages spell out in detail the surrounding circumstances and provide evidence of complicity involving those persons. Those involved, of course, did not realize that the parcel had been seized in Guernsey. Dylan and Stephen Jenkins were involved in this activity. Dylan getting something out of it and his name and address were on the package. The parties were disappointed that the package did not arrive on Friday. On the Saturday afternoon Daniel Gates and Jack Gates were both aware that the package was due on the Friday. On the Saturday afternoon, Daniel Gates suggested an arrangement that Stephen Jenkins would attend their chip shop at 10 am on the Monday during his work break, after having got the package. The drugs would be cut-up at the chip shop and Stephen Jenkins would get some as a reward.

Dylan sent messages to Daniel Gates and Jack Gates that he'd also be attending the chip shop at that time. Dylan was asked, we were told, by Jack Gates whether he could provide scales. Then of course on the Sunday we have the "offer count" from Jack Gates.

Following enquiries, the drugs, the subject of Count 4, the possession count, were found at Stephen Jenkins' address.

We need not go over the details of the interviews to any extent. Dylan Jenkins, Daniel Gates, Jack Gates and Stephen Jenkins, i.e., all of the four defendants were not exactly forthcoming and it would have been better, in view of the evidence, if all of them told the complete truth straight away.

In relation to pleas, Stephen Jenkins made legal submissions on the admissibility of evidence and I found, as a matter of law, that they failed. He changed his plea to guilty very quickly afterwards. Guilty pleas were made by the others on 21<sup>st</sup> November, 2019. In view of the circumstances, these were timely pleas and Stephen Jenkins is not to be penalised for making a legal submission, and, as stated, he pleaded very quickly afterwards. All in all, there were essentially timely pleas of 'guilty' for the four accused, who have been on unconditional bail (all of you) throughout. A lot of the delay, of course, is due to the global health emergency, and is nobody's fault.

### **Sentencing Considerations**

Counsel will have told the defendants that this Court is bound by guidelines from the Court of Appeal in these cases, at least here in respect of Counts 1 and 3. The case of Richards, as a matter of law has to be applied.

For the amount of up to 2kg the starting-point for sentence is a band of 3-6 years and the guidelines apply in this case.

It is our duty to carefully consider all of the factors and in each case of course we have to look at it differently from all the others; every case is different. We selected an appropriate starting-point, before proceeding to consider and apply appropriate mitigation. That is what we loyally seek to do here.

Postal importations are always considered an aggravating factor and the misuse of the postal system is to be taken into account. Hence the amount on Counts 1-3 is towards the bottom, but not right at the bottom of the band, but taking the misuse of the post into account, we select a starting-point of 3 years and 6 months' for the importation and 3 years on the other Counts, 2 and 3.

### **Mitigation**

This is found in the guilty pleas. Stephen did plead guilty after legal argument, but he was entitled to do so. We treat the accused as of effectively previous good character, Stephen having not offended, as we said, for over 20 years. We note the submissions of counsel, the helpful probation reports and the considerable volume of references. Mercifully we give mitigation of over 50%. The simple possession is dealt with concurrently. If we do err, it is in favour of the accused.

### **Sentences**

This was not a small amount, but an appreciable importation.

We treat **Stephen and Dylan Jenkins**, in all the circumstances the same way:

- Count 1 - Stephen and Dylan Jenkins – 18 months' imprisonment from today
- Count 4 – Stephen Jenkins in relation to the simple possession – 1 month concurrent
- Count 3 – Dylan Jenkins – 18 months' imprisonment concurrent.
- **Total for both is 18 months from today**

A good deal of our time was devoted to considering the sentences for **Jack and Daniel Gates**. In all the circumstances, the Court is prepared to make a Community Service Order of 200 hours as a direct alternative to 15 months' imprisonment. In relation to **Jack Gates** that is concurrent on Counts 2 and 4.

You have probably been told what that means. It means you must do every single minute of your 200 hours unless you have a medical certificate, or else you will be brought back here and you get the 15 months' imprisonment. It also means, like a suspended sentence, that if you re-offend during that period this Order is revoked and you get your 15 months' on top of any other sentence. That is the Order of the Court.

Confiscation and Destruction Orders as requested.

Compulsory Supervision for **Stephen and Dylan Jenkins** on release.

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

**14<sup>th</sup> August 2020**