

Fraudulent evasion of the prohibition on importation of a controlled drug in contraventions of section 2(1)(a) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 as amended and possession of a controlled drug contrary to section 4(2) of the aforementioned law.

[2021]GRC024

**ROYAL COURT
FULL COURT**

5 May 2021

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Claire Helen Le Pelley, Terry John Ferbrache,
Joanne Marie Wyatt, Peter Francis Gill, David John Robilliard, Marilyn Jasmine King,
Tina Jane Le Poidevin, Paul Martin Burnard, Heather Reed.**

THE LAW OFFICERS OF THE CROWN

- v -

Jordan Ashley Marley CLAY

Crown Advocate J D McVeigh appeared for the Crown

Advocate M P Priaulx appeared for the Defendant

JUDGE OF THE ROYAL COURT:

Background

Mr Clay you have pleaded guilty to 9 counts on 1 Indictment.

There are 6 Counts (1 to 6) of being knowingly concerned in the fraudulent evasion of the prohibition on importation of a controlled drug in contravention of the prohibition on importation imposed by section 2(1) (a) of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974 as amended.

There are three counts (7 to 9) of possessing a controlled drug contrary to section 4(2) of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974 as amended.

Count 1 concerns MDMA which is a Class A controlled drug which carries a maximum penalty of life imprisonment. Counts two to six concern various class C controlled drugs each of which carries a maximum penalty of 10 years' imprisonment. Counts 7 to 9 concern further Class C controlled drugs which have maximum penalties of four years' imprisonment.

The facts in relation to the first indictment are that on 18th July 2020, Customs officers at the Guernsey Post Office intercepted a package containing 20 tablets of Mesterolone (Count 2), approximately 10ml of Drostanolone (Count 3), 50 tablets of Oxandrolone and that was combined with Stanozolol (Counts 4 & 5) and 103 tablets of Etizolam (Count 6), all being Class C drugs, making a total of 173 tablets, plus the liquid. The package was addressed to you at your Alderney address.

On 22nd July 2020 Customs officers at the Guernsey Post Office again intercepted a package addressed to you at a different address in Alderney containing 13.97g of MDMA, a Class A drug.

Following your arrest, a search of your home led to the seizure of further Class C drugs namely 10 mls of Testosterone Cypionate, 10 mls of Testosterone Enanthate and 26 Stanozolol tablets (being the subject of Counts 7-9). A Samsung mobile telephone was also seized.

As is your right, you answered 'no comment' to all questions in your two interviews.

Analysis of the mobile phone revealed evidence of your having placed the orders for the above postal importations.

The 13.97g of MDMA is valued at between £1,117.60 and £1,397.00 and the Class C drugs at approximately £340.

You are 28 years of age. You were born in Wales and have lived in Alderney for some time. Despite some difficulties in your early education, you achieved a BTEC in Public Services and have consistently worked in catering and, latterly, landscape gardening. You are nearing completion of an NVQ in Horticulture. You are clearly an intelligent man.

You have no previous convictions.

You have been on conditional bail throughout proceedings which commenced in Alderney on 3rd December 2020.

Sentencing Considerations

The sentencing guidelines for offences involving drugs of Class A are contained in the case of Richards and this Court is obliged to follow those guidelines. The sentencing band for Class A drugs in powdered form is 7 to 9 years for quantities between 1 and 20 grams. The maximum sentence in respect of the Class C importations is 10 years and that relates to Counts 2-6. As set out in Richards, we are obliged to identify a starting point for each of the importations and then determine a total starting point for all of them to which the mitigation is then applied.

Counts 7 to 9 are of possession, lesser offences which we note would, if they stood alone, be dealt with by the Magistrate's Court.

It is a well-established principle that postal importations are treated as an aggravating factor when it comes to sentencing. There were two separate importations. We will sentence you on the basis of the most serious Count, the Class A importation, as the lead offence, and we will regard the second to sixth Counts, and the other Counts, as aggravating the first Count, but sentence you concurrently.

The Richards guidelines are binding on this Court. Having considered Richards we take a starting point of 8 years for the Class A offence; 18 months for Counts 2 to 5; 2 years for Count 6 (noting the quantity) and we further take a starting point of 2 months for the possession offences.

Considering the principle of totality and, having looked at the offending in the round, we have determined a combined starting point of 10 years.

No evidence has been placed before the court to indicate that you were intending to supply any other person with drugs and no drug trafficking investigation is sought. That does not negate the fact that the importation of drugs adds to the stock in the Island.

In view of the quantity of the Class A drug, the Court is satisfied that the custody threshold in respect of your offending has been passed.

Mitigation

The court must first consider the impact of your guilty pleas on sentence. We afford you full credit for your guilty pleas to all offences which you indicated at the earliest opportunity.

The Court has considered the realistic and helpful Probation Report prepared in respect of you as well as the helpful report from your therapist and the exceptional and credible letters of reference and support.

You have found a home in the Alderney Community which values you and continues to support you despite this offending. We note your significant contribution as a volunteer in, and a member of, that community. We also note your integrity in withdrawing from activities on your arrest.

We have listened carefully to what has been said on your behalf by your Advocate who was realistic in his submissions. You appear to have been leading a dual life. On the one hand, working, studying and contributing fully to your community, but on the other hand, committing serious drugs offences.

Sadly, your association with drugs began at a young age, when it appears that it was commonplace all around you and represented an escape from a troubled childhood. Despite having moved to Alderney to move away from that lifestyle, and having managed 4 years drug free, you relapsed into drug use about 18 months ago. It is to your credit that you have sought help and maintained a drug free period of 9 months.

We note your strong work ethic, which is also to your credit, as is your decision to seek help with substance abuse before your arrest. You are assessed by the Probation Officer and your therapist as motivated to change. We note the remorse expressed by you and your insight into your offending. You are assessed as having a low risk of re-offending which we can and do take into account.

Sentence

We have taken the lowest starting point for the first Count at 8 years, which we then increased to 10 years as stated above. We have given you the fullest discount for your guilty plea and a generous further discount for your good character and personal mitigation. A sentence of immediate custody was always unavoidable. The quantity of Class A drug is too high to consider any alternative.

Taking into account all the above and applying generous discounts, the sentences will be as follows:

- Count 1 - 4½ years immediate imprisonment from today
- Count 2 - 9 months immediate imprisonment from today, concurrent
- Count 3 - 9 months immediate imprisonment from today, concurrent
- Count 4 - 9 months immediate imprisonment from today, concurrent
- Count 5 - 9 months immediate imprisonment from today, concurrent
- Count 6 - 12 months immediate imprisonment from today, concurrent
- Count 7 - 1 month immediate imprisonment from today, concurrent
- Count 8 - 1 month immediate imprisonment from today, concurrent
- Count 9 - 1 month immediate imprisonment from today, concurrent
- This gives a total of **4½ years immediate imprisonment from today.**

What we would like to say to you Mr Clay is that when this is done, we note that the Alderney community will welcome you back and the Court hopes that this will be your last court appearance.

The Crown's application pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006 in respect of the Samsung mobile telephone is also granted. The Court notes that this has not been resisted. The Court is satisfied that this item was lawfully seized and that the analysis of it shows it has been used for the purpose of committing or facilitating the commission of an offence, as evidenced by your pleas. The Court has, as required by subsection (5), had regard to the value of the

property and the likely financial and other effects on you of making the order before deciding to grant the Crown's application.

The forfeiture and destruction order sought by the Crown in respect of the drugs, again which was not opposed, is also granted.

In accordance with section 1 of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, upon 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 less. If you fail to comply with the conditions of the supervision, you will be liable to further imprisonment, a fine, or both.

**Catherine Maureen Fooks,
Judge of the Royal Court**

5 May 2021