

Being concerned in the supply of the Class A controlled drug MDMA and in the supply of Class B controlled drug, cannabis and failing to disclose information when a RIPL Notice had been served.

[2022]GR007

**ROYAL COURT
FULL COURT**

25th February 2022

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Stephen Murray Jones OBE,
Terry John Ferbrache, Jonathan Grenfell Hooley,
David Percy Langley Hodgetts LVO (OStJ),
Steven John Morris, Joanne Marie Wyatt, David John Robilliard,
Marilyn Jasmine King, Tina Jane Le Poidevin.**

THE LAW OFFICERS OF THE CROWN

- v -

ELLIS RACHEL PIKE

**Advocate R J Calderwood appeared for the Crown
Advocate S E Steel appeared for the Defendant**

LIEUTENANT BAILIFF:

Background

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

1. Being concerned in the supply of the Class A controlled drug MDMA, maximum penalty life;
2. being concerned in the supply of the Class B controlled drug, cannabis, maximum penalty 21 years;
3. failing to disclose information when a Notice had been served on you, namely your i-Phone passcode, maximum penalty, 2 years.

You were charged on the 18th September 2021, committed to this Court on 8th December 2021 and indicated guilty pleas, which were taken on 16th December 2021.

You are a 34 year old local person. You have a previous conviction for possession of a controlled drug on 25th September 2017, when you were fined £500. You have a Juvenile Caution for the supply of cannabis resin. You have been on conditional bail throughout. The delay is not attributable to yourself and we note this.

Facts

The Prosecution have given us a detailed account of the facts. Put briefly, during the course of an associated investigation, communications were found indicating that you were concerned in supplying.

The Police arrested you at your place of work. We have heard the list of what they found in your rucksack and sports bag. Scales and a grinder with cannabis traces in the rucksack and £975 cash plus a whole lot of drugs in your sports bag. The photographs depict what was found, including scales with cannabis resin and ecstasy (MDMA) traces. At your house, the Police found a deal list and paraphernalia including a bong.

In total there were 3.26 grams of cannabis and 62.05 grams of MDMA, in both tablet and powder form. The cannabis street value at the time was £65.20 to £97.80; the tablets of MDMA (ecstasy), were valued at £20-£25 each and the 18.53 grams of powder separately seized, £1,482.40 to £1,853. The 108 tablets had a street value of £2,160 - £2,700.

Despite being issued with an official Notice, you refused to give your pass-code. But fortunately for the interests of justice, officers were able to access it. The messages, which could hardly be clearer, show you were an active dealer of MDMA and cannabis for several years. The extracts we have seen are very familiar in their language and the drug terminology employed.

Very fairly, the Prosecution submission is that they cannot go beyond the first sentencing categories in the leading case of Richards which, as a matter of law we are bound to apply, and which has been reinforced recently by the Court of Appeal. The Prosecution cannot prove that supply goes over the first band of sentences laid down in Richards for each type of drug, i.e. cannabis, MDMA tablets and MDMA powder. We agree that it is an aggravating feature all three were supplied over a significant time.

Sentencing Considerations

As stated, we are bound by the guidelines. The bands of sentences as starting-points which they set-out, are as follows:-

- Class A in powder form: 1 to 20 grams – 7 to 9 years;
- Class A tablets: 1 to 500 – 7 to 9 years;
- Class B cannabis resin: up to 2 kg – 3 to 6 years.

We have to consider a combined starting-point, always bearing in mind the individual circumstances of the case, and not conducting a purely arithmetical exercise. It seems to us, erring on the side of leniency, that the Class A tablets and powder can be put together as two aspects of the same thing. We then add in the starting-point for the cannabis, which is to the lower end of the first band.

We must pay heed to the very active drug-dealing you are shown to have conducted over an appreciative period. Our combined starting-point is therefore 8 years, which seeks to fairly reflect these factors.

The RIPL offence is prevalent and the maximum penalty inadequate. We look at the offence separately and, we see too many refusals so we start at 12 months. We select this starting-point in view of the totality principle, and, in other cases it is quite likely to be higher. The total for all three offences is therefore 9 years.

Mitigation

We have listened to what your Advocate has said and read the references, the letter and the Probation report. We note you have a 9 year old son, but there were drugs paraphernalia at your home and drugs and that is where you live with him, so we have to take note of that. We pause to reflect the helpful guidance given by the Court of Appeal in the case of Shakespeare in 2003, again which binds us, the separation from children which results from the parents' illegal actions.

The pleas of guilty were quite inevitable on the evidence. You also wilfully, but unsuccessfully, tried to conceal evidence of your ongoing illegal activities by refusing to comply with the RIPL Notice. In your favour is a not extensive record and no previous custodial sentences. All in all, noting also a good work record, we can afford a total discount of just over one-third, which leans in the direction of leniency.

Sentence

We sentence on the more serious of the two drug offences and this reflects your total criminality. The RIPL offence is separate. We know that drugs ruin lives and the need for drugs causes crime. Acquisitive crime by those who want to find money to pay for them. A realistic sentence that reflects your crimes is essential. We regularly see here the human misery that misuse of drugs causes, resulting from the illegal supply of drugs. A realistic sentence, as we say, must reflect all this.

- On Count 1 the most serious: the sentence is 5 years' imprisonment;
- On Count 2: the sentence is 2 years' imprisonment which will be concurrent;
- On Count 3: the sentence is 9 months' imprisonment for the RIPL offence, consecutive.
- Total: 5 years and 9 months' imprisonment from today.
- Confiscation and Forfeiture Orders as requested;
- Drug Trafficking proceedings which will be undertaken in due course, timetable as agreed;
- Compulsory Supervision for one quarter of the total sentence on release.

That is the Order of the Court, will you please go down with the Officers.

J R Finch, O.B.E.
Lieutenant Bailiff

25th February 2022