

Unlawful supply of cannabis and cannabis resin.

[2021]GRC072

**ROYAL COURT
FULL COURT**

26 November 2021

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Terry John Ferbrache,
Steven John Morris, Stuart Michael Crisp, Marilyn Jasmine King, Tina Jane Le Poidevin,
Paul Martin Burnard, Felicity Jane Quevâtre-Malcic, Heather Reed, Simon Ernest Bodkin.**

THE LAW OFFICERS OF THE CROWN

- v -

LAYTON ANTHONY JAMES MAHY

**Advocate J D McVeigh appeared for the Crown
Advocate C J Green appeared for the Defendant**

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on an Indictment containing two Counts of being concerned in the unlawful supply of cannabis and cannabis resin. Each carries a maximum penalty of 21 years' imprisonment.

You are a 27 year old local man, unemployed, not working since 2019. You have a number of convictions: in 2016 a CSO for possession with intent to supply cannabis resin and possession; in 2018, possession of cannabis resin x 2, when you received a 2-month sentence, suspended for 18 months, activated in 2019 when you were sentenced for carrying an offensive weapon. On 28 September 2020, you received a merciful, as the judge stated, 18-month Probation Order, with drug and alcohol testing for disorder at St Martin's Health Centre. You are in breach, we are told, as the present offences, whilst they took place before that hearing, you were not convicted until you pleaded guilty on 2 September 2021. This is a technical breach and we do not propose to look at it otherwise.

The present case took a long time, 500 pages of information from your mobile phone appeared, then the officer had to self-isolate. But the delay was not caused by you, and early pleas were entered. You have been on unconditional bail throughout.

The Prosecution Outline was detailed, to cut a long story short, 17.94 grams were found at your house when the Police were there checking someone else. The exhaustive analysis of your mobile phone, which you handed over and the passcode, was over a period 01.02.2020 to 27.05.2020, as a sample.

So, we have 17.94 grams in one-gram deals at your home and during the relevant period, on a conservative estimate, 239 grams sold. Total: 256.94 grams with a Guernsey street value in total between roughly £5,000 - £7,600. Your first Police interview was not helpful, though the phone, which for some reason had not been initially seized, was handed over. A 71-page report on the messages was produced by an expert. You were faced with that at a second interview. However, the phone had provided details of your activities.

Sentencing Considerations

Under binding guidelines, which we must comply with and have also been clearly set-out very recently by the Guernsey Court of Appeal, the appropriate band of sentences for these matters, for a quantity under 2 kgs, is 3-6 years as a starting-point.

We note the following features: previous relevant convictions and that you were an extremely active dealer, albeit of relatively small amounts, but to a lot of consumers. We need not go over the messages we have heard about, they are self-explanatory.

We consider it fair in this case to add the amounts on both charges together and sentence concurrently, so as to reflect your overall criminality, i.e., we are concerned with the total quantity of 256.94 grams.

We enhance the starting-point to reflect the points just mentioned. Of particular concern is your very regular activity. Our starting-point is therefore 3 years. We now have to consider mitigation.

Mitigation

Your 'guilty' plea was inevitable on this evidence, but we are still encouraged to give some credit, though here it is limited. The long delay is also good mitigation, as is your public service. Your compliance with the investigation in relation to your phone is very good mitigation. So often people refuse, lie about why and get an extra sentence for that refusal. Here, we note particularly that the phone was the item of evidence which justified the prosecution for these offences.

Non-custodial measures are inappropriate for this amount of dealing on such a scale, but we give you a discount of over one-third, amounting to over 50%, based on the mitigation in this case. We point out that the sentence would have been a lot higher had you not co-operated on the phone matter. We note the thoughtful Probation report, what your Advocate has said and the letters and their contents.

Sentence

You are a drug dealer and it is appropriate that you will be out of operation. You have relevant convictions and have secured a custodial period before. But here, as stated, the mitigation is in your favour.

As in so many of these cases, you have a history of substance and alcohol misuse and various health problems. Testing for drugs/alcohol was not very encouraging up to August of this year. Your various problems need to be grappled with and only you can help yourself, a good deal of assistance has been offered. You post a high risk of re-offending.

However, we are under a duty to do what we can to suppress this type of offence, which contributes to crime and other undesirable acts in the community. We, in our experience, note that well over 90% of so-called 'acquisitive crime', such as thefts and burglary, is caused by people wanting to get money to buy drugs.

The sentence on each Count, from today's date, is:

- 21 months' imprisonment concurrent. Total: 21 months.
- On the breach of Probation, the technical breach, no Order, but we discharge the Order.
- Forfeiture and Destruction Orders as requested.
- Drug Trafficking timetable as agreed.
- Section 12 Drug Trafficking Law Order.
- Compulsory Supervision after release for one-quarter of the total sentence.

J R Finch, O.B.E.
Lieutenant Bailiff
26 November 2021