

Concerned in the supply of controlled drugs, of Classes A, B and C and possession with intent to supply in respect of Class B drugs.

[2022]GRC027

**ROYAL COURT
FULL COURT**

27 April 2022

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Stephen Murray Jones OBE, Jonathan Grenfell Hooley,
David James Mortimer, Joanne Marie Wyatt, David John Robilliard, Paul Martin Burnard,
Felicity Jane Quevâtre-Malcic, Heather Reed, Simon Ernest Bodkin.**

THE LAW OFFICERS OF THE CROWN

- v -

MARTYN STEVEN CLARKE

Advocate J D McVeigh appeared for the Crown

Advocate C A Tee appeared for the Defendant

LIEUTENANT BAILIFF:

Background

You appear here this afternoon for sentence on an Indictment containing 6 Counts: Counts 1-3 of being concerned in the supply of controlled drugs; Counts 4-6 possession with intent to supply.

- Count 1: concerned in the supply of cannabis, a controlled drug of Class B. Maximum penalty of 21 years' imprisonment;
- Count 2: concerned in the supply of THC, a controlled drug of Class A. Maximum penalty, life imprisonment;
- Count 3: concerning the supply of Gabapentin, a controlled drug of Class C. Maximum penalty, 14 years' imprisonment;
- Count 4: possession of the Class B controlled drug ADB-Butinaca, with intent to supply. Maximum penalty 21 years' imprisonment;
- Count 5: possession of the Class B controlled drug, 4-Fluoro MDMB-Butica, with intent to supply. Maximum penalty, 21 years' imprisonment;
- Count 6: possession of the Class B controlled drug, 4-Fluoro Abutinaca, with intent to supply. Maximum penalty, 21 years' imprisonment.

You are a 41 year old local man with what the Prosecution rightly says, "a significant criminal record". You have spent periods in the UK, most recently, Scotland, returning here in 2020.

In September 2006, this Court sentenced you to 6½ years for being knowingly concerned in the unlawful importation of a controlled drug of Class A. Before that, you ran-up convictions for assault, dishonesty and arson and have served numerous custodial sentences. We note later convictions in 2011, 2012, 2014 and a breach of a suspended sentence supervision order in October, 2020 and in September 2012,

this Court sentenced you to a total of 30 months for drugs and other offences, all we are told, committed whilst on bail.

In the present matter you failed to answer your Police bail and booked a ferry trip away to the UK. So you then came to the Magistrate's Court on 9th April 2021 and have been in custody ever since.

During the proceedings you changed your Advocate on 13th October 2021. A contested trial for these matters took place from 7-10 March 2022. You maintained pleas of 'not guilty' to the Counts, but changed your pleas on Counts 1 and 3 (being concerned in supply, as stated) but on a basis that required a contested so called Newton Hearing. You were convicted on the matters you still pleaded 'not guilty' to and the Prosecution version was found proved on Counts 1 and 3.

The trial Court heard all the facts in full and we summarize them now. After the Police attended a flat, you were found in bed. A man-bag with a bum-bag was found, together with a large duffel bag which was open. £3,990 was found in a purse in the man-bag, plus your debit card. In the duffel bag, two transparent bags were located. One contained herbal cannabis amounting to 17.55 grams, 8.31 grams in five deal bags and 9.24 grams loose. The other large bag contained 9.31 grams of herbal cannabis, plus various paraphernalia.

In the duffel bag a total of 174.06 grams of Class B drugs was located. These are not the subject of a possession count, but are relevant for sentencing for the supplying.

Your mobile phone was examined. It showed you were actively concerned in the supply of Class A, B and C controlled drugs. There were 45 contacts. You clearly had others selling drugs on your behalf, either to pay off drugs-debts, or secure a supply for themselves. We note the messages to Corey Le Poidevin (at page 133 of the bundle) as an example. You did allow credit, (see the messages with Nikita Davison at page 177) and also at page 97 with Leon Lomax about a debt owed.

The Prosecution state, and on the clear evidence we agree, that you were at "the heart of a web of small-scale dealers and regular customers", including your own daughter. Cannabis was your biggest trade, and you discussed the price increase for this with your contact Danny Entwistle (at page 56 of the bundle). You also discussed the price of Class C drugs with your Thailand-based contact, Phil Dodd. You offered to supply the Class A drug THC, page 132 to another person, and page 155 to James Leale referring to this drug. You also supplied liquid drugs in dropper bottles such as those found in the bag. You discussed the strength with customers such as Alan Shales at page 156 of the bundle. You supplied the Class C drug, Gabapentin, (see pages 122 and other pages 129 and 170) to Louis Hollowell, Alan Shales, Chrissy White and Stace Wallace.

At the time, herbal cannabis had a street-value of £50-£70 per gram and the synthetic Class B drugs, £60-£80 per gram. The herbal cannabis totalling 110.96 grams is valued at £5,548 to £7,878.16; the synthetic Class B drugs, £3,906-£5,208.

Sentencing Considerations

We try to make our approach as straight forward as possible, noting that what was found only represented a part of your activities. We have drugs of Classes A, B and C. We seek to follow the binding guidance of the Guernsey Court of Appeal and aggregate all the offences to a combined starting-point, representing our view of your overall criminal activities. Drugs are constantly coming on the market in new variants. We note the Class A supplying shown in Count 2, but also the very serious drug-dealing business you had, as stated, with all those contacts and the leading position you held. We arrive at a combined starting-point, taking these matters into account of 10 years. This is enhanced by your bad record, especially of significant drug offending for which custodial sentences were imposed. We do not take your bad record into account as reducing relevant mitigation, so there is no double-counting. All in all, this is

a very serious case, in Guernsey terms, and you were more than a simple drug-pusher. We comply with the totality principles.

Mitigation

You pleaded ‘not guilty’ and on two Counts put the Prosecution to proof at a Newton Hearing, where your version was rejected, but we do not add anything on because of the pleas. Had you come clean straight away, you would have had effective mitigation of around one-third, but that is not available to you. We note your experienced Advocate’s submissions and the Probation report, and the letter from the Prison doctor. You maintain your version of events to the Probation Officer. We are encouraged by our Court of Appeal to give credit for agreeing evidence and thus shortening the length of the trial and saving valuable Court time. That is the only real mitigation we can find and we are not casting around for any mitigation we can conjure-up. This entitles you to a fair discount and we credit you with it. We give you, erring if at all on the side of generosity, 20% credit on that. That is all we can find and we also take account, as much as we can, of your difficult life.

Sentence

It is very good for the Island that you have been caught and your extensive activities suppressed. Experience shows that people like yourself, ‘a little bit up the chain’ are difficult to apprehend. We need also to deter activities of this scale in this jurisdiction and we have seen regularly how drug misuse ruins people’s lives. You are also, as the Probation report says, in a population with a very high risk of re-offending. Drugs ruined your life as well. Put bluntly, you need to be off the scene for a long time.

With these considerations in mind, we sentence as follows:

- On Count 2 (the Class A) - 8 years’ imprisonment;
- On Counts 1, 4, 5 and 6 - 5 years’ imprisonment concurrent;
- On Count 3 (the Class C) - 3 years’ imprisonment concurrent;
- **Total: 8 years with effect from 9th April 2021** (when you were first in custody)
- **Forfeiture and Destruction Orders**, as requested.
- **Drug Trafficking Timetable**, as agreed.
- **Compulsory Supervision** after release for one-quarter of the total sentence.

I have noted personally your letter to me Martyn, thank you very much for doing it. All I will say is, this is good advice, free legal advice, you are getting a bit old for this sort of thing. Go down with the Officer please.

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

27 April 2022