

Being concerned in the unlawful importation of herbal cannabis, a controlled drug of Class B and failing to disclose information after a RIPL Notice was served. Being in possession of Class A controlled drug Δ9-THC and possession of the Class B controlled drug Cannabis.

[2022]GRC029

**ROYAL COURT
FULL COURT**

12th May 2022

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Stephen Murray Jones OBE,
Steven John Morris, David James Mortimer, Joanne Marie Wyatt, David John Robilliard,
Marilyn Jasmine King, Paul Martin Burnard, Heather Reed.**

THE LAW OFFICERS OF THE CROWN

- v -

CONNER ANTHONY FALLA

Advocate J D McVeigh appeared for the Crown

Advocate S E Steel appeared for the Defendant

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on two Indictments:

First Indictment contains 2 Counts:

Count 1: Being concerned in the unlawful importation of 13.84 grams of herbal cannabis, a controlled drug of Class B; maximum penalty 21 years' imprisonment;

Count 2: Failure to disclose information after a RIPL (Regulation of Investigatory Powers) Notice was served; maximum penalty 2 years' imprisonment.

Second Indictment also contains 2 Counts:

Count 1: In possession of 571 grams of the Class A controlled drug Δ9-THC; maximum penalty 14 years' imprisonment.

Count 2: At the same time and place possession of the Class B controlled drug Cannabis, in the amount 63.98 grams herbal and 3.09 grams in a mix; maximum penalty 10 years.

You are a 23 year old local person with several previous convictions including assault on the Police, theft, damage and disorderly behaviour. A Community Service Order was imposed on 19th March 2020 and you are in breach of it, which will be dealt with later at the conclusion of these proceedings.

You committed the importation offence, Count 1 of Indictment 1, whilst subject to Court bail. The RIPL offence was a conviction after a contested trial here on 14th and 15th March, 2022. You were on bail to 19th July 2021, but remanded in custody since that date following charge for the importation offence (Count 1, Indictment 1). On the Second Indictment early guilty pleas were entered at a Plea and Directions hearing on 6th January 2022.

In respect of Indictment 1: Count 2, the RIPL offence, was a failure to comply with a Notice issued relating to a phone and you were convicted at trial. This was all part of a Police investigation into an importation.

Count 1 relates to the interception of a postal packed containing 13.84 grams of herbal cannabis and enquiries about it to the Post Office were from your contact number.

In respect of Indictment 2: Count 2, this followed your apprehension by the Police and the discovery of the items at your property, where you had just smoked some Cannabis. A search revealed a total of 63.98 grams of herbal, plus 3.09 grams as previously mentioned, in a mix with tobacco.

Count 1, refers to THC liquids and paste etc found at your property, and we note the photographs at page 11 of the bundle. Total 571 grams of Δ 9-THC in various forms and I emphasize, that is a Class A, the most serious category of controlled drug.

We have heard the details of your Police interviews. You admitted possession of the drugs found at your property and maintained denial of the RIPL offence, denying being in possession of the item at the material time.

At the time herbal cannabis was valued (we are told) at £50-£70 per gram. The total value of all the cannabis concerned was £4,045.50-£5,683.70. The THC liquid (Class A) in two bottles, 205.6 grams can be valued at £20,560-£26,728. It is not possible, as we have heard, to value the THC sweets and paste mixture.

Sentencing Considerations

In respect of Indictment 1, Count 1, we are obliged to follow the binding Richards guidelines from our Court of Appeal, recently reiterated in the case of Orchard and Others.

For importing a figure of up to 2 kgs the starting-point we have to consider is in the region of 3-6 years. It is our job to select such a starting-point and then consider applicable mitigation. In view of the facts of the case, noting especially the abuse of the postal system, the fact you were on bail and your poor record of compliance, we enhance the starting-point to 4 years.

On Count 2, the RIPL offence on the first Indictment, we start with a period of 18 months, based on the circumstances, which showed you were avoiding detection as a drug-dealer. This has recently been helpfully dealt with in the Court of Appeal, and we find, on the facts here, it is a conclusion that we are entitled to come to.

On the Second Indictment, both Counts are possession, but Count 1 involves a very large quantity of a Class A drug, with a considerable value. Count 2 is a possession charge again of a significant amount of herbal cannabis, over 63 grams. These are possession charges, not covered by the Richards guidelines - which deal with drug trafficking, possession with intent to supply and importation etc.

Count 1, as stated, is a very large quantity of Class A. We sentence on the charges as set-out, i.e. possession, but make what we consider is a common-sense and rational decision that with such a large amount it adds considerably to the store of such drugs in Guernsey. We also remind ourselves how you failed to comply with the RIPL Notice, for what we conclude are obvious reasons.

We are also concerned with the packaging of some of the Class A drugs which provides an inducement to young and vulnerable people.

Hence, we consider that the circumstances of this case are such that we can take the very large quantity into account. We sentence, it should be noted, on Guernsey considerations and we find that, allied to the RIPL offence, you are evidently a supplier of drugs in some form or another. We note the English Guidelines, but, as has been said in this Court and the Guernsey Court of Appeal on a number of occasions, they do not bind us and we must act as we consider appropriate for this jurisdiction. We repeat, that on Count 1 of the second Indictment, this added very considerably to the stock of Class A drugs in the Island. We start and select a combined starting-point on the Second Indictment of 3 years and 6 months, based, we repeat, on the particular facts in this case. So, the total starting-point on all these matters is 9 years.

Mitigation

We have considered what your Advocate has told us, as well as your note and the various Probation reports. You have a history, to put it mildly, of non-compliance. You had little practical alternative but to plead guilty to the matters before us, but pleaded ‘not guilty’ to the RIPL offence. This means that although there is mitigation for the matters you pleaded to, we can see no applicable credit on the RIPL matter which took up, as we said, valuable and scarce Court time.

All in all, we apply a discount on the matters to which you pleaded guilty of one-third and none on the RIPL in view of the circumstances we have set out. We follow the point made by the Court of Appeal in Richards which binds this Court, on purity not being a factor to take into account.

Sentence

You do not learn from your mistakes and present a high likelihood of re-offending, according to the Probation report. We agree and you have a long-term dependency on cannabis, which has seriously impacted on your health and your behaviour. You were even medically prescribed cannabis, but re-offended. You have had chances and “blew” them so you must realise your actions have consequences. Non-custodial measures are wholly inappropriate here.

We sentence as follows, bearing in mind the totality principle throughout:

First Indictment:

<u>Count 1</u>	-	<u>2 years and 8 months’ imprisonment.</u>
<u>Count 2</u> (RIPL)	-	<u>18 months’ imprisonment, consecutive.</u>

Second Indictment:

Count 1 - 2 years and 4 months' imprisonment.

Count 2 - 6 months' imprisonment, concurrent, but the total of 2 years and 4 months on the Second Indictment is consecutive to the total on the First Indictment.

Total: 6 years and 6 months' imprisonment, backdated from 19th July 2021.

In view of the total we do not add a Probation Order, but there will be Compulsory Supervision under the legislation for one-quarter of the total sentence on release.

Forfeiture and Destruction Orders as requested.

Drug Trafficking Timetable as agreed.

Section 12 Order made as requested.

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

12th May 2022