

Offences of being involved in the unlawful importing of the Class B controlled drug cannabis resin, the supply of the same Class B controlled drug cannabis resin and the importation of Class C drugs, 4 of different types.

[2022]GRC033

ROYAL COURT
FULL COURT

4th March 2022

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Claire Helen Le Pelley, Terry John Ferbrache,
David Percy Langley Hodgetts LVO (OStJ),
Steven John Morris, Joanne Marie Wyatt, David John Robilliard, Marilyn Jasmine King,
Tina Jane Le Poidevin, Heather Reed.**

THE LAW OFFICERS OF THE CROWN

- v -

**CRAIG ALAN DODD
JOSHUA MICHAEL JONES
JASON LESLEY GAUVAIN**

Advocate C G Dunford appeared for the Crown

Advocate S E Steel appeared for the First Defendant

Advocate P F Cobb appeared for the Second Defendant

Advocate C J Green appeared for the Third Defendant

LIEUTENANT BAILIFF:

Background

You appear here today for sentence as follows:

The First Indictment (all 3 accused):

- Count 1: Messrs **Dodd** and **Jones** importing the Class B controlled drug cannabis resin.
- Count 2: Jason **Gauvain** supplying the same cannabis resin.

The Second Indictment (Craig Dodd only):

- Four Counts: 4 counts, each for importing Class C drugs, 4 different types.

The maximum sentences are 21 years on the first Indictment and 14 years on the second Indictment, in respect of each offence.

Mr Jones is 36 and he has a long record, including drugs matters, in particular 18 months for possession with intent to supply on 5th July 2011. There are numerous other offences and custodial sentences and previous convictions for theft, burglary, disorder etc.

Mr Gauvain is 37 and was convicted of possession and fined in 2004 and sentenced in 2011 to 2 months for breach of a CSO. There are other convictions including theft and driving whilst disqualified.

Mr Dodd is 38 now and there is a history of previous convictions including, on 26th January 2015 before this Court, two counts of importing controlled drugs, when a sentence of 13 years in total was imposed. You were mercifully released on licence in 2019, having been in custody since 2013. That is now, we are told, revoked.

The case has taken some time to get to Court and we have heard the reasons. There were delayed pleas, particularly from **Mr Dodd** and a legal argument by **Mr Gauvain** which, of course, had to be dealt with and, as I have said, he was entitled to raise.

Messrs **Dodd** and **Jones** have been in custody throughout and I will deal with the different dates later on and **Mr Gauvain** on conditional bail.

We have received a helpful chronology from the Prosecution, at page 17 of the bundle.

We have heard the details of the arrests. A postal packet from Bournemouth with a false name and mis-spelling of “Havilland”. The same mis-spelling was found in a message from **Joshua Jones** to **Craig Dodd** on his mobile phone, which helps to tie the latter to the importation. A bit later, **Jason Gauvain** was observed by officers carrying a large object in a black plastic bag. He put it down, used his phone, picked it up again and walked to the opposite end of the Odeon car park. **Mr Joshua Jones** was also observed there. **Mr Joshua Jones** left carrying this package and **Mr Jason Gauvain** was jogging behind him to catch-up.

Upon the police intervening, **Joshua Jones** threw the package down and “legged it” towards Doyle Road and was pursued. He threw his mobile phone into a garden. This was located by the Police a bit later.

The CCTV from Doyle Motors was of limited use and only showed **Craig Dodd’s** vehicle in the car park there. It was found **Mr Jones** had run past this vehicle shortly before he was caught. **Mr Dodd** left at that point. **Jason Gauvain** was arrested and, unsurprisingly, was in an agitated state. **Joshua Jones’** address was searched and nothing of interest was found, but one of three persons there was **Craig Dodd**. At that stage, **Mr Dodd** was not arrested.

The package was examined and four heat-sealed packages, each with two bars of cannabis were found inside. Fingerprints belonging to **Jason Gauvain’s** right palm was subsequently found on the outside top of the plastic contained of the water-chiller in which the cannabis was located. The total weight of the cannabis was 752.64 grams, Guernsey street-value of £15,052.80 to £22,579.20 at that time.

Mobile telephone evidence was found from **Jason Gauvain’s** device for which he provided the pass-code. **Mr Jones** did not provide his, but as we have heard, there was no charge in respect of that. The evidence from **Gauvain’s** phone demonstrated contact at the relevant time with the two other accused and messages which we have had summarised by the Prosecution. This, we have heard, implicates all three defendants. ‘Max 3’ was the UK contact. Messrs **Jones and Dodd** were ensuring that the package was sent in the name of the real person who previously resided there and **Mr Gauvain** was to collect the package, and I emphasise, we are going into detail because this has been particularly complicated on the facts and I am trying to get each of them right.

We have heard about **Joshua Jones’** statement, seeing to run-out **Craig Dodd**. This was not accepted by the Prosecution and it contained false information. Subsequently the Prosecution served evidence on Advocate steel which contained messages between Messrs **Dodd and Jones**, undermining **Jones’** attempt to show he was solely responsible. **Mr Dodd** not only maintained his ‘not guilty’ plea until very late in the day, but also served false evidence and required more work on behalf of the Prosecution.

In pre-trial proceedings, **Mr Jones** gave an indication of a ‘guilty’ plea early. **Dodd and Gauvain** had pleaded ‘not guilty’. **Gauvain** changed his plea on the 12th January this year; **Dodd** changed his plea on 17th January, the first day fixed for the trial.

Mr **Dodd** was, on the facts, knowingly concerned in the importation. Mr **Gauvain**, it is accepted, had the necessary guilty mind when he realised how heavy the bag was and opened it when he arrived at the address. Also, in his interview, we have heard the details – he admitted being suspicious about the package and he opened it because it was clearly heavy. He did not know why his fingerprint was there, but he agreed that he did think “it was dodgy”. Messrs **Jones** and **Dodd** chose to exercise their right to silence.

So as I said, it is a complex case and detail is necessary to understand all the details of that Indictment.

In relation to the second Indictment which concerns Mr **Dodd** only, a package was delivered by an innocent van driver and intercepted by Customs. There was a small doll inside and a small box which contained the Class C drugs set out in the Indictment. They were labelled: “Vape, decadence taste the pleasure”. A further box inside contained “Dino Children Immune Enhancer”, and had been re-sealed. The leg fell off the doll and two vials were found – “water for injection” and on removal of the doll’s head, 20 clear vials marked “human growth hormone”. The two glass vials contained a performance enhancing substance called HGH and the four charges each refer to a different category of Class C drugs found.

That was not the end of the matter as Advocate Steel indicated his client had been prescribed these substances for arthritis and muscle wastage by a doctor in Thailand, enclosing an unsigned prescription.

As the importation was addressed to someone other than the defendant and was concealed, this naturally caused some suspicion. Then a statement, purportedly from the doctor was produced. But extensive enquiries showed no trace of this person. In particular, Health Direct was named on the prescription and the company confirmed this person had no connection with them whatsoever. The Prosecution sent a list of pertinent questions to Advocate Steel, but there was no reply.

The Deputy Chief Pharmacist for the States indicates that the steroids imported were not a conventional treatment for the conditions named in the UK or unlikely anywhere else in the world. They were for body-building, not medical conditions. One is an anabolic steroid used by veterinarians. She found no trace of the doctor in an internet search. There was no legitimate medical reason for a person to receive the drugs.

The defendant’s iPhone disclosed Internet searches for steroids and incriminating WhatsApp messages, making arrangements for a third-part to collect the package and warning them that if they saw the Police they should not go near the delivery lorry.

There are no current Guernsey prices for these items as prices vary.

Sentencing Considerations

For up to 2kg of cannabis the band of sentences as a starting-point is 3 to 6 years. We have 752.64 grams.

For Class C, on the second Indictment, a good deal depends on the individual circumstances. These drugs have become more common since the guideline case of Richards was issued, and though still not nearly as common as Class B drugs, are increasing somewhat in number. We often hear new names of new drugs in the course of our work.

We have to note your relevant previous convictions, which go to enhance the starting-point on the First Indictment and particularly, we note that Messrs **Dodd** and **Jones** have poor records. We repeat, that **Joshua Jones** gets credit for his early plea. **Gauvain’s** credit is also rather limited here, but largely explained.

The Class C drugs, we are told, represent a 6-month supply. There was no indication that they were not for personal use, but the quantity did go to increasing the quantity of illegal drugs available in the Island.

We now have to select appropriate starting-points in each case. I repeat again, this is a complex case on the facts and the individual circumstances and the involvement of the defendants differ, which is why I have had to go into so much detail.

In respect of Count 1 and Count 2, we start at 4 years, noting especially the quantity but also factoring in the previous history of the defendants.

On the second Indictment, we also have to come to a starting-point. We emphasise very much on the individual facts of the case and noting the normal use for these Class C substances. The situation with Class C drugs depends very much on the circumstances and we start at 12 months looking at our other cases in this particular category.

Mitigation

As stated, an early plea for **Joshua Jones** and in particular for Mr **Dodd**, a late plea. So greater credit for **Joshua Jones** which you will hear in a moment.

We have already referred to the limited role that the Prosecution assign to Mr **Gauvain** and this was also factored-in when sentencing.

On the second Indictment, we are prepared to accept that **Dodd** got these drugs for personal use, but there is still an appreciable amount over 6 months and not a couple of days.

This is never a purely mathematical exercise; each case has to be viewed on its own distinctive facts. This is plainly not a guideline case and should not be cited as such. For **Joshua Jones** we give a generous discount. We repeat, early guilty pleas will attract appropriate recognition when sentencing. For **Craig Dodd** we give limited discount on the first Indictment and on the second Indictment and we consider the totality principle.

We stress for completeness, we have fully considered the submissions of counsel and the helpful Probation reports, the Psychiatric report and admission to hospital, as well as the diagnosis for **Gauvain**. We also note the letter from **Dodd's** partner.

Sentence

We are not going to add any more on the facts. We have had to go into a lot of detail. We sentence as follows, reflecting what we have said:

- **Joshua Jones** – Count 1 the importation – 30 months' imprisonment with effect from the 22nd September 2020. We reflect the fact that you put your hands up earlier for which we repeat, we give full credit.
- **Jason Gauvain** – I will deal with you in a moment.
- **Craig Dodd** – For Count 1, an importation – 3 years' imprisonment with effect from 20th January 2020. On the Second Indictment, looking at all the circumstances, 9 months' consecutive to the earlier sentence. Total 3 years and 9 months (45 months from that date).
- **Confiscation** – **Dodd's** phone was used to facilitate the offence and in all the circumstances it is a proportionate act to order its forfeiture.
- **Joshua Jones'** phone is confiscated as well and the iMac computer we have considered and an order for the return of that and also for **Gauvain's** phone.
- Compulsory Supervision after release for a quarter of the sentences.

- Drug Trafficking timetable as agreed.

Mr **Jones** and Mr **Dodd**, you can go off and I will deal with other sentencing for **Gauvain** and I would point out that you have been around for quite a long time both of you so I suggest you are both getting a bit old for this sort of business.

Mr Gauvain, we have had a long think about what to do with you. We have got a Psychiatric report; we have got a diagnosis and we have also got a really good Probation report. In a minute I will be dealing with a couple of other things, but what we have decided is this: we will give a Probation Order for the maximum period which is 3 years so you will be on Probation and you will have to behave yourself. If you reoffend during that period you will be brought back here and very likely locked up, particularly if I am here as I have got a very long memory and a bad nature sometimes.

In paragraph 17 of the Report there are extra conditions which you have got to comply with:

- Weekly appointments with the Probation Officer to address your emotional regulation, management skills, substance issues, chaotic presentation and encourage what they call “pro-social coping styles of behaviour”, in other words, how to get on with your life without descending into chaos and fouling things up.
- Secondly, multi-agency, lots of different people approach to support you with housing and to adhere to your current mental health plan, receiving treatment as an outpatient to receive medication. This will mean information-sharing among the agencies to support you whilst in the community.
- Interventions, so that is people coming to help with your thinking skills, to keep away from dodgy people (they refer to negative peers) and that is what that means and increase your thinking so you work out what the problems are and try to avoid them. The work will focus on drug supply and misuse and the impact on other people, including the risk to you directly.

That is the Order of the Court Mr **Gauvain** in respect of this. You are walking today, but if you foul-up in any way when you have got your 3-years, either re-offend or break any of the conditions, you will be re-sentenced on this and it won't work a second time.

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

4th March, 2022