

Concerned in the supplying of a controlled drug of Class B, namely Codeine, to another, contrary to Section 33(b) of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974, offered to supply a controlled drug of Class B, namely Cannabis, to another, contrary to Section 31(b) of the 1974 Law and did an act intending to pervert the course of justice.

[2022]GRC053

**ROYAL COURT
FULL COURT**

29th April 2022

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Stephen Murray Jones OBE, Terry John Ferbrache, Jonathan Grenfell Hooley,
David James Mortimer, Joanne Marie Wyatt, Stuart Michael Crisp,
Felicity Jane Quevâtre-Malcic, Heather Reed and Simon Ernest Bodkin.**

THE LAW OFFICERS OF THE CROWN

- v -

SHAREAN ASHWORTH

**Advocate J McVeigh appeared for the Crown
Advocate S E Steel appeared for the Defendant**

JUDGE OF THE ROYAL COURT:

Background

Ms Ashworth you have pleaded guilty to 3 counts on one indictment:

Count 1 – is that between the 16th August 2020 and the 26th January 2021 you were concerned in the supplying of a controlled drug of Class B, namely Codeine, to another, contrary to Section 33(b) of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974, as amended, the maximum penalty for which is 21 years' imprisonment.

Count 2 – is that on the 10th February 2021 you offered to supply a controlled drug of Class B, namely Cannabis, to another, contrary to Section 31(b) of the 1974 Law, as just mentioned, the maximum penalty for which is also 21 years' imprisonment.

Count 3 - is that on or about the 24th February 2021 you did an act tending to pervert the course of justice, which is a common law offence, the maximum penalty for which is life imprisonment.

The facts are that on the 24th February 2021 you were arrested at work at which time officers believed you to be intoxicated. You were searched and your Apple iPhone was seized. Your home address was subsequently searched and officers seized a small pink tin box safe, other telephones and £666 in cash. They were able to get into the safe using a key found on you and found various blister packs and medication and a small bag of blue pills in the safe.

Officers were able to access your phone and they found messages in which you are shown as clearly concerned in supplying Codeine on the 16th August 2020 and 23rd August 2020 to a person referred to as 'K' and on the 25th January 2021 to a person referred to as 'S'. They found further messages on the 9th and 10th February 2021 between you and a person referred to as 'T' in which you are offering to

supply Cannabis. Officers had seized your phone but they had not seized your smart watch and shortly after your arrest you sent messages to a person referred to as 'T' instructing 'T' to get to your house to get rid of everything because you had been arrested and you were therefore instructing another person to destroy evidence relevant to a police investigation in a criminal prosecution against you intending that the course of justice should thereby be perverted.

While in custody you said that you thought that someone was trying to fit you up. At your first interview you were accompanied by a friend who acted as an appropriate adult. Having received legal advice by telephone, you answered the questions in that interview. You spoke about your prescribed medication and you denied that you had taken any medication from your work or that you had had any access or opportunity to do so. You denied knowledge of the key to the pink safe, you said that the cash was from your wages. At the end of the interview officers wanted to give you a RIPL notice and other documentation so you sought a break to take further legal advice as is, of course, your right. You also requested a further interview on the basis that you had not been completely honest.

There was a second interview but, when it was discovered that your appropriate adult might be a witness, that interview was terminated. During that short interview you gave a different explanation about the cash. There was a third interview with an independent appropriate adult in which you admitted that you had lied about the key to the pink safe and you gave a slightly different explanation as to the cash; you answered questions in relation to your mobile phone. It was put to you that you had sent the messages after your arrest, which you admitted and you said that it was referring to the diazepam which was in the pink safe. You admitted that the statement you had made about someone trying to fit you up was a lie. You said that you had nothing more to tell the officers and your conscience was clear.

You are a local woman of 29 years of age, 28 at the time of your arrest, at which time you were working as a pharmacy assistant. You have two previous convictions in 2011 for failing to disclose information with reference to a benefit claim and making a false statement to obtain income support for which you received community service orders. You have been on conditional bail throughout the proceedings.

Sentencing Considerations

We will set the sentences for the drug offences and the attempt to pervert the course of justice separately before reviewing the total sentence.

The sentencing guidelines applicable to offences involving the supply of drugs are contained in the case of *'Richards'*. Those guidelines were recently considered by the Guernsey Court of Appeal in *'Barras, Watt and Orchards v Law Officers'* 2021 CGA045 and reaffirmed as current and appropriate.

There is no overall quantifiable amount of drugs in the 2 drugs counts. Such amounts as are mentioned are small and the scope of your offending was limited. We take account of the nature of the offences, especially the second, which is an offer to supply.

The lowest sentencing band for the supply of Cannabis and Cannabis Resin, the Class B drug considered in *'Richards'* is 3-6 years and the Court considers that your offending falls at the lower end of that band in respect of each of the drugs offences. We therefore set a combined starting point for the two drugs offences of 3 years.

There are no guidelines for sentencing perverting the course of justice. It is always considered to be a serious offence as it undermines the very system of criminal justice. The Court is satisfied that the custody threshold, in respect of that offence, has been passed. The starting point will be 6 months.

Mitigation

Although it was a very blatant attempt to pervert the course of justice, it is not considered that there are any particular aggravating factors. In those circumstances the two starting points are left as they are, namely, 3 years for the drugs and 6 months for the attempt to pervert the course of justice.

The Court must first consider the impact of your guilty pleas on sentence. Your Advocate has confirmed those pleas despite the suggestion in the Probation report that you might not accept your guilt in respect of the drugs matters. We afford you full credit for your guilty pleas to all offences.

The Court has considered carefully the very helpful Probation report prepared in respect of you, we have also listened to the compelling submissions of your Advocate, we have read your heartfelt letter and the letter from your GP in which she expresses opinion that an immediate custodial sentence would be very detrimental to your mental health. It is to your credit that you were working at the time of your arrest and had been for a year but it seems now that, unfortunately, that opportunity has been lost to you, although your accommodation remains open.

Your Advocate has highlighted the 14 month delay since your arrest, for various reasons, for which, he submits, you should not be penalised. We accept this and note that you have had this hanging over you for that period which has given you plenty of time to reflect.

The Court notes your sad and difficult history and personal circumstances as well as your vulnerability. All relevant matters have been taken into consideration. The Probation officer describes that you are attending CDAT which is to your credit and the officer does not recommend any further help with any issues for you, as you know where to access that help.

You have previous convictions for dishonesty, which are more than 10 years old, but none for drugs, so this is your first appearance for such offences and indeed such serious matters which is taken into account to your credit.

You have demonstrated remorse. You are assessed as a having a high likelihood of reoffending but, as your Advocate said, you are lightly convicted and there has been nothing in the last decade. Your experience in dealing with these matters has been salutary, he told us. The Probation officer, importantly, says that you are considered to be motivated never to be before the Court again and the recommendation is that you should receive an alternative to immediate custody. We note that there is a request for drug trafficking investigation in respect of you but that you deny that the cash found in the pink box represents the proceeds of drug trafficking.

The Court is satisfied that the custody threshold has been passed, but in view of your plea, absence of relevant convictions and all the mitigation just mentioned, the Court is able to consider alternatives to an immediate custody.

In sentencing you we have taken into account the totality principle.

Sentence

You have said that you had made a big mistake - and that is absolutely right - and that this is your first and last time to be arrested and to be before this Court and we hope that that is right.

The Court is able to let you go back into the community today but make no mistake that you will have this one chance only.

Taking into account all the above and applying the appropriate discounts, the sentences will be as follows:-

Count 1 – 22 months suspended for 2 years.

Count 2 – 22 months also suspended for 2 years’ concurrent.

Count 3 – 2 months also suspended for 2 years but consecutive.

This makes a total of **2 years suspended for 2 years**.

You will not have to serve the suspended sentences of imprisonment unless, during the next two years, you are convicted of an offence punishable with imprisonment. If you are convicted of such an offence you will be liable to serve all or part of the sentences. A suspended sentence is not a let-off, it is a custodial sentence which is being suspended. It will hang over your head for that period of time and those will be the consequences, so please bear that in mind.

The Crown’s application, pursuant to Section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law 2006, for forfeiture of the Apple iPhone 11, seized whilst you were in police custody, is also granted. The application was not opposed. The item was lawfully seized and self-evidently used for the purpose of committing the offences, as evidenced in the prosecution outline. The Court has, as required by subsection 5, had regard to the value of the property which, we are told, is £242 and the likely financial and other effects on you of making the order before deciding to grant the Crown’s application.

As you have also heard, the Court, of its own motion, is making a similar order in respect of the smart watch, the value of which is not known exactly but it cost over £200 and was purchased not long before your arrest. That item had been lawfully seized; it was in your possession and it is in your possession now. It was in your possession at the time when you committed the offence with it, which was to send the messages, which constitutes an act tending to pervert the course of justice, so self-evidently it was used for the purposes of committing an offence. The application has not been opposed by you and, you have had an opportunity to make representations in respect of it. The Court is satisfied that it should make that order and it does make that order. The watch should be surrendered to the police station within 7 days.

Summary

There is a total term of imprisonment of 2 years suspended for 2 years and there is forfeiture of the iPhone and the smart watch.

Catherine Maureen Fooks
Judge of the Royal Court

29th April 2022

Addendum

Having received representations from Advocate Steel on behalf of Ms Ashworth after the hearing that the smart watch is owned by a third party who is not willing to surrender it, and in the absence of any opposition from the Prosecution, the Court revoked the forfeiture order made in respect of the smart watch.

Catherine Maureen Fooks
Judge of the Royal Court

17th May 2022

