

Being knowingly concerned in the fraudulent evasion of the prohibition on importation of goods, contrary to section 77(1)(b) and 77(2) of the Customs and Excise General Provisions (Bailiwick of Guernsey) Law 1972 by importation through the postal system controlled drugs of Class B.

**[2022]GRC057**

**ROYAL COURT  
FULL COURT**

**28<sup>th</sup> January, 2022**

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:  
Stephen Murray Jones OBE, David Percy Langley Hodgetts LVO,  
David James Mortimer, Joanne Marie Wyatt, David John Robilliard, Marilyn Jasmine King,  
Tina Jane Le Poidevin, Paul Martin Burnard, James Robert Toynton.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**PETER FRANCIS HALL**

**Advocate C G Dunford appeared for the Crown  
Advocate P Lockwood appeared for the Defendant**

**JUDGE OF THE ROYAL COURT:**

**Background**

Mr Hall you have pleaded guilty to 2 counts on 1 indictment of being knowingly concerned in the fraudulent evasion of the prohibition on importation of goods, contrary to section 77(1)(b) and 77(2) of the Customs and Excise General Provisions (Bailiwick of Guernsey) Law 1972, as amended.

Both counts concern two separate importations of herbal cannabis through the postal system and each offence carries a maximum penalty of 21 years' imprisonment or a fine or both.

The facts are straightforward, namely that Customs officers intercepted the first package on the 24<sup>th</sup> of March 2021 addressed to you at your home. The package had been sent by special delivery. It contained 6.93 grammes of herbal cannabis. The second package was identified at the Post Office on the 31<sup>st</sup> March. It had also been sent by special delivery addressed to you at your home and contained two amounts of herbal cannabis: 3.81 grammes and 3.46 grammes respectively.

The total amount of cannabis imported by you was 14.2 grammes. Its value is estimated as between £710 and £994.

Your home was searched on the 18<sup>th</sup> April 2021 and various electronic devices were seized including a Lenovo laptop. You provided the passcode for this device. Examination of the laptop connected you with the packages and disclosed that you had made attempts to track them and to search items connected with the importation of illegal drugs and the seizure of packages by Customs. You were arrested and interviewed on that day and interviewed again on 24<sup>th</sup> June 2021. You largely answered 'no comment' to questions put to you which is your legal right.

You are a local man of 32 years of age and all currently employed as a waiter. You have no previous convictions. You have been on unconditional bail throughout the proceedings.

### **Sentencing Considerations**

The total amount of cannabis imported by you was 14.2 grammes.

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 Orchard v Law Officers 2021 GCA045 and re-affirmed as current and appropriate. This Court will continue to follow those guidelines.

The cannabis imported by you falls within the lowest band in Richards namely three to six years for amounts up to 2kg. We set the combined starting point for the two importations at 3 years.

The Court is satisfied therefore, that the custody threshold in respect of your offending has been passed.

Postal importation is always viewed as an aggravating factor. Your postal importation lacked sophistication as you had both packages addressed to yourself at your home and tracked at least one of them. The fact that there was more than one package is also an aggravating factor. In view of those aggravating factors, we set a revised starting point, before mitigation, at 3 years 3 months.

### **Mitigation**

#### Plea

The Court must first consider the impact of your guilty pleas on sentence. We afford you full credit for your guilty pleas to all offences.

#### Mitigation

The Court has considered carefully the very helpful Probation Report prepared in respect of you. We have also listened to the sensible and helpful submissions of your Advocate.

We have read the 12 references provided by family, friends, your employer and medical practitioners which set your offending in the context of your mental health struggles and attest to your good character. More than one describes you as embarrassed by your offending and more than one expresses concern at the impact on you of a prison sentence.

Your most significant mitigating factor is your good character.

Though you have not worked regularly over the years, you are working and are a valued employee according to the letters from your employer. Your work is a significant factor which protects you from offending.

The Court notes that you provided your passcodes to the devices which assisted the investigation and is to your credit.

You have demonstrated remorse for your offending, as your Advocate put it – you are “properly mortified”.

The report explains that you have used cannabis regularly over the years to help manage your anxiety. You made the choice to order it online. You are assessed as not needing a referral to the Criminal Justice Substance Service as you have good insight into your mental health and the need to seek help

for your anxiety from mental health services. We are told that you have not used illicit substances for a year.

You have accepted full responsibility for your offending and its consequences. As you said to the Probation officer – you have “no-one to blame but yourself”. The Court notes that your job is secure and the support of your employer was very evident.

You are assessed as having a low likelihood of re-offending which we can and do take into account. We note though that this is dependent on you accessing help when required with your mental health issues. You are not assessed as needing any supervision.

We note that there is no request for a drug trafficking investigation in respect of you.

## **Sentence**

As I have said, the Court is satisfied that the custody threshold has been passed but in view of your pleas, previous good character and mitigation, the Court is able to consider alternatives to immediate custody.

The Court favours a Community Service Order in your case and this will provide reparation to the community and enable a period of contact between you and those running the services to provide you with some additional support while you complete the hours. The Court was heartened to hear that you would discharge any Community Service Order in full before leaving the Island.

Mr Hall, this should be a huge ‘wake-up’ call for you at the age of 32. You could have ended up in custody today. The Court is accepting your undertaking to perform the hours of Community Service. A lot of people have spoken up on your behalf and you owe it to them to honour your commitment to complete the Community Service Order. The consequences of breach are very serious.

As you go forward, you will need to be alert to your mental health issues and recognise when you need to access appropriate help.

Taking into account all the above and applying the discounts we have, the sentencing will be as follows:

- In respect of Count 1 the sentence imposed is 180 hours of unpaid work.
- In respect of Count 2 also, the sentence is 180 hours of unpaid work and these hours will run concurrently with the hours in respect of Count 1.
- **Total - 180 hours of unpaid work**

We note that you have signed a form stating that you understand the nature and effect of a Community Service Order, the power of the Court to review the Order and the consequences that may follow if you fail to comply with any of the requirements of the Order, or if you are convicted of a further offence while the Order is in force.

Each of these Orders is imposed as a direct alternative to a sentence of imprisonment. The alternative sentence that we were considering in respect of Count 1 was 1 year imprisonment and similarly in respect of Count 2, 1 year imprisonment to run concurrently. The Court is satisfied that provision can be made for you to perform work and that you are a suitable person to perform work.

Please note (and your Advocate will emphasise this to you I am sure), that if you fail to complete even one hour of the work without a medical certificate or commit any other offence, you will be brought back before this Court and you will face going to prison.

## **Forfeiture s3 Police Property and Forfeiture (Bailiwick of Guernsey) Law 2006 as amended**

The Crown's application pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006 for forfeiture of the Lenovo laptop is also granted. I note that this has not been resisted. The Court is satisfied that this item was lawfully seized and that the analysis of it shows that it had been used for the purpose of committing or facilitating the commission of the offences. The Court has, as required by subsection (5), had regard to the value of the property, which is a maximum of £300 and the likely financial and other effects on you of making the Order before deciding to grant the Crown's application.

#### **Forfeiture under the Misuse of Drugs (Bailiwick of Guernsey) Law 1974 as amended**

The Crown's application pursuant to section 26 of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974 as amended in respect of the drugs and packaging as contained in the table included in the Prosecution Outline is also granted. The Court notes that this has not been resisted and is satisfied that these items were lawfully seized and they relate to the offences.

Mr Hall, the summary of today's outcome is this:

- **On Count 1 – 180 hours Community Service Order or a term of 1 year imprisonment.**
- **On Count 2 – 180 hours Community Service Order or a term of 1 year imprisonment, concurrent to Count 1.**
- **The Forfeiture and Destruction Order for the drugs and their packaging and forfeiture of the laptop.**

You may leave once the Court has risen.

**Catherine Maureen Fooks  
Judge of the Royal Court**

**28<sup>th</sup> January 2022**