

Failing to comply with a notice served on you under section 46 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 to provide the passcode to unlock a mobile telephone.

[2022]GRC060

**ROYAL COURT  
FULL COURT**

**10<sup>th</sup> August 2022**

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:  
Terry John Ferbrache, Jonathan Grenfell Hooley,  
David James Mortimer, Joanne Marie Wyatt, David John Robilliard, Stuart Michael Crisp,  
Marilyn Jasmine King, Tina Jane Le Poidevin, Felicity Jane Quevâtre-Malcic.**

**THE LAW OFFICERS OF THE CROWN**

- v -

**JESSICA MELANIE JEAN SIMON**

**Advocate J D McVeigh appeared for the Crown  
Advocate L C Roffey appeared for the Defendant**

**LIEUTENANT BAILIFF:**

**Background**

You appear here today for sentence for one count of failing to disclose information required under what is called a RIPL Notice, under section 46 of the Regulation of Investigatory Powers Law. The maximum penalty is 2 years' imprisonment.

The Magistrate's Court declined jurisdiction on 14<sup>th</sup> March 2022. An early guilty plea was entered and you have been on unconditional bail throughout.

The case arises from a drugs warrant executed at the home address of yourself and your partner on 15<sup>th</sup> October 2021. A bong, illegal substances and other items were found. In the course of your arrest you kicked over the coffee table and said later: "*I need to be more careful who my boyfriend is, don't I?*" and, "*Now I'm angry*" and, "*It's not me you need to worry about*".

A Statutory Notice requiring disclosure of the PIN number within 7 days was served on you on 11<sup>th</sup> January 2022, which you failed to comply with and the phone has never been forensically examined.

You are a local person, aged 35 now. You have convictions before the Magistrate's Court on 3<sup>rd</sup> July 2008, with 40 hours Community Service Order for computer misuse – unauthorized access. Since then you have no further offences to note.

**Sentencing Considerations**

We are seeing this offence of deliberate obstruction of Law Enforcement in the proper execution of their duty regularly.

The Guernsey Court of Appeal, a higher Court, has expressly approved the Royal Court's approach here. Custody is almost inevitable, and it is appropriate when such offences are committed, to infer that they are perpetrated to conceal other offences.

You committed the computer misuse offences when employed by the Island Police in order to check if your partner (at the time) had committed an offence, which you had heard at a briefing. You were not authorised to do so.

This present matter, as recognised in previous cases, and upheld by the Court of Appeal, is serious. We start at 12 months' imprisonment, before we go on to consider mitigation.

### **Mitigation**

Your early plea was inevitable on the facts and is worthy of a limited amount of credit. You have accepted the past misuse of drugs and your partners. You described your refusal as a "*shit decision*". You said that you were under a degree of psychological pressure and state that your partner became increasingly controlling and abusive and you ended the relationship in May of this year. There is no question here of what the law describes as duress, however. We note that your experienced and able advocate, has said everything he could on your behalf and the references produced and the full Probation report.

We give you some discount for the plea and more for leading, in most part, a law-abiding life since your conviction and obtaining responsible employment. We consider around 25% is fair and proportionate. Being a single mother is not a 'get out of jail' card and you committed the offence which is why you are here.

### **Sentence**

We need to do our best to suppress the obstruction of enquiries. The sentence of the Court on you, taking everything into consideration is 9 months' imprisonment from today, suspended for 3 years. We note all the facts in this particular case which stands on its own exceptional circumstances and therefore has the most limited value as a precedent. The Forfeiture and Destruction Orders are granted as requested.

The mitigation, which you heard, falling from the lips of your experienced advocate, won't work again if you reoffend – that will be it, it cannot be recycled. If you do anything wrong in the next 3 years it carries a sentence of imprisonment and you will get the 9 months added on top of it and it won't matter what your domestic circumstances are then, because you will have expended all your credit. I have a long memory and if you come back before me, that is likely to be the situation.

That is the Order of the Court:

- **9 months' imprisonment, suspended for 3 years;**
- **Forfeiture and Destruction Orders.**

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

**10<sup>th</sup> August 2022**