

Possession of controlled drugs contrary to Section 4 (2) and in contravention of section 4(1) of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974, as amended. Relating to Class B and Class A drugs, and failed to disclose certain information within seven days as required by a Notice served under section 46 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law 2003.

[2022]GRC065

**ROYAL COURT
FULL COURT**

24 March 2022

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Stephen Murray Jones OBE, Claire Helen Le Pelley,
David James Mortimer, Joanne Marie Wyatt, Marilyn Jasmine King, Tina Jane Le Poidevin,
Heather Reed, Simon Ernest Bodkin, James Robert Toynnton.**

THE LAW OFFICERS OF THE CROWN

- v -

CONNOR JAMES PRIAULX

**Advocate M Davies appeared for the Crown
Advocate C Green appeared for the Defendant**

JUDGE OF THE ROYAL COURT:

Background

Mr Priaulx you have pleaded guilty to nine counts on one indictment.

Eight of the counts relate to possession of controlled drugs contrary to Section 4 (2) and in contravention of section 4(1) of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974, as amended. All occurred on the same date, namely 26th April 2021. Six counts relate to Class B drugs for which the maximum penalty is 10 years imprisonment and/or a fine. Two counts relate to Class A drugs for which the maximum penalty is 14 years' imprisonment and/or a fine.

The ninth count is what we call a RIPL offence, namely that between the 24th May 2021 and the 2nd June 2021, you failed to disclose certain information within seven days as required by a Notice served under section 46 of the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law 2003. The maximum sentence for this offence is 2 years' imprisonment or a fine up to Level 5 or both.

The facts in relation to the drugs offences are that on 26th April, 2021, a police officer saw you driving a vehicle not registered to you and, based on intelligence that you were concerned in the supply of controlled drugs, stopped you (although you did not stop immediately), and searched the vehicle and you. You were found to have 0.02g of cannabis in a grinder in your trousers and that drug forms Count 1 on the Indictment.

Two searches of properties connected to you were carried out later that day and the following were found:

At the first property

- 23.52g cannabis resin (Count 2)
- Glass jar containing 13.58g of cannabis (Count 3)
- Dropper bottle containing 9.1g of 4-fluoro MDMB-BUTICA (Count 4)
- Pink vape pen containing 1g of Δ^9 THC (Count 5)

And, at the second property

- Dropper bottle containing 3.2g of Δ^9 THC (Count 6)
- Dropper bottle containing 4.2g of ADB-Butinaca (Count 7)
- Dropper bottle containing 11.1g of MDMB-4en-PINACA (Count 8)

The fact of the RIPL offence, which is Count 9, are that a Notice was issued to you on 25th May 2021 requiring you to disclose your passcode, with which you failed to comply.

You were interviewed by police twice and exercised your right to silence.

You are a single local man of 23 years of age, 22 at the time of the offences. You had been working as a gardener/landscaper.

You have a number of previous convictions; by my reckoning twelve for traffic matters (the last in May 2021), one in 2018 for being concerned in the supply of class B cannabis for which you received 18 months' Youth Detention and one for sending menacing messages, for which you received 10 weeks' Youth Detention, plus 2 further weeks for the breach of your supervision order, by committing the latter offence.

On 5th January this year in the Magistrate's Court, you entered guilty pleas to two offences: one under section 4 of the Public Order Law of 2006 and one under the Criminal Damage Law 1983. These offences were committed whilst you were awaiting sentence for this matter.

You have been on unconditional bail throughout the proceedings.

Sentencing Considerations

Drugs

We will deal with the drugs offences first. There are no sentencing guidelines for the possession of drugs. The Richards guidelines do not apply. The first question is whether the custody threshold has been passed which we consider it has, looking at the total amount of drugs in your possession and you have, through your advocate, sensibly conceded to this.

We will set a combined starting point before looking at aggravating and mitigating factors.

The possession of the Class A (4.2g in total) of Δ^9 THC is the most serious offence. We consider that the starting point should be 12 months.

You also had 37.1g cannabis, 13.3g of BUTICA and Butinaca (2 types) and 11.1g of PINACA. The synthetic cannabinoids were in a form ready to be used so we will sentence on the basis of the quantity in the dropper bottles and therefore the total quantity of Class B is 61.5g. We would take a separate starting point for the Class B offences of 6 months, but we will treat them as concurrent for totality reasons.

At this stage the combined starting point is therefore 12 months.

There are aggravating factors in this matter, the number of different drugs and your previous conviction for the supply of Class B. There are no particular mitigating factors relating to the offences. We increase the combined starting point to 15 months.

The RIPL Offence

The Guernsey Court of Appeal in Barras, Watt and Orchard also considered the sentencing in respect of RIPL offences and made four observations:

1. Failing to make the disclosure required by a Notice issued under section 46 of RIPL is a serious matter; which will almost invariably call for an immediate custodial sentence.
2. The sentencing court is entitled to proceed on the basis that the failure to provide access is motivated by a desire to hide something; either to protect others involved in criminal activity or to conceal the accused's own more extensive criminality.
3. Deterrence is an important aspect of sentencing in this context.
4. The appropriate sentence will, of course, depend on the particular circumstances of the case.

In your case the Court is sceptical of your explanation in view of your previous conviction for drugs matters. Again, the custody threshold is clearly passed, as you rightly concede, and the starting point will be 12 months.

Mitigation

Plea

The Court must first consider the impact of your guilty pleas on sentence. You entered those at the earliest opportunity and are afforded full credit.

Mitigation

The Court has considered carefully the Probation report prepared in respect of you and listened to the submissions of your Advocate. The Court notes and accepts that all the drugs were for your personal use and that some were very, or fairly small, quantities. You say that you were self-medicating to soothe anxiety, depression and pain. It is clear that you have smoked cannabis from an early age and then branched out into other substances. We note that you kept some of your supplies at your parents' house. You are still a young man but you are accruing a poor record at a rate.

Your Advocate has made all the available points for you. You have a good work record and there are aspects of your life which are said to be pro-social but you make poor decisions, notably around drugs, and this has cost you your relationship and has led you to this Court. You are said to have the capacity to make better life choices. We cannot ignore the commission of further offences in November 2021.

You are not assessed as needing any referral to the Criminal Justice Substance Service or any work with the Probation Service. You are assessed as having a medium likelihood of reoffending which we must take into account.

As stated, the Court is satisfied that the custody threshold has been passed in view of the seriousness of your offending, your record and your continued offending; alternatives to immediate custody cannot be considered.

Sentence

Mr Priaulx, you are here today because, despite having served a prison sentence for supplying cannabis, you have continued your association with illegal substances. You have a total disregard for the law. It is said that you have the skills to avoid future offending. From the Probation report, you know that your poor decision-making has affected your life and will impact your future, unless you decide to make changes. It is up to you.

Taking into account all the above and applying the appropriate discounts and factoring in the totality principle the sentences will be as follows:

- Taking Count 6 first as this is the most serious - 9 months' imprisonment from today.
- Count 5, which is the other Class A count – 9 months' imprisonment concurrent from today.
- In respect of Counts 1, 2, 3, 4, 7 and 8 – sentences of 4 months' imprisonment concurrent with the above.
- That makes a total of 9 months' imprisonment for the drugs offences.
- In respect of Count 9, the RIPL offence – the sentence is 9 months' imprisonment consecutive.
- **Total sentence of 18 months' imprisonment from today.**

Supervision

In accordance with section 1 of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, upon release (or completion of any parole period if applicable), you will be subject to supervision by the Probation Service for a period equal to one-quarter of the total sentence, or the period you would have served had you not received remission, whichever is the shorter. If you fail to comply with the conditions of the supervision, you will be liable to further imprisonment, a fine, or both.

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 iPhone 11 is also granted. The application was not opposed. This item was lawfully seized and it is to be inferred from the failure to comply with the RIPL Notice, that it has been used for the purpose of committing or facilitating the commission of an offence, as evidenced by your pleas. The Court has, as required by subsection (5), had regard to the value of the property (£350) 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, which is not opposed, for forfeiture and destruction of the drugs and exhibits (as read out by the Prosecution) and which were lawfully seized and relate to the offences, is also granted.

So in summary, I repeat that the total sentence is:

- 1 total term of imprisonment - 18 months from today;**
- 2 forfeiture and destruction of the drugs;**
- 3 forfeiture of the iPhone.**

Thank you Mr Priaulx, please go with the officers.

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

24th March 2022