

Knowingly concerned in the unlawful importation of 293 grams of synthetic cannabinoids of Class B drugs.

[2022]GRC067

**ROYAL COURT
FULL COURT**

26 August 2022

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Claire Helen Le Pelley, Jonathan Grenfell Hooley,
David James Mortimer, Stuart Michael Crisp, Marilyn Jasmine King, Paul Martin Burnard,
Felicity Jane Quevâtre-Malcic, Simon Ernest Bodkin, James Robert Toynton.**

THE LAW OFFICERS OF THE CROWN

- v -

TARA LOUISE LE POIDEVIN

and

ELLIOT ADRIAN SHAW

**Crown Advocate F M Russell appeared for the Crown
Advocate P Lockwood appeared for the First Defendant
The Second Defendant represented himself today.**

LIEUTENANT BAILIFF:

Background

You each appear here today for sentence on an Indictment containing four Counts that you were knowingly concerned in the unlawful importation of just under, in total, 300 grams of synthetic Class B drugs via the post. The offences ran from 20 February 2021 to 14 April 2021 and each has a maximum of 21 years' imprisonment.

Mr Shaw pleaded 'not guilty' and a 4-day contested trial took place in early July. Miss Le Poidevin had pleaded guilty and was a Prosecution witness at that trial.

Miss Le Poidevin was born in Guernsey in 1995, she lived for a while in Northern Ireland and has no previous convictions. She is 27.

Mr Shaw is a local man born in 1985, now aged 37. There are relevant previous convictions for the possession of controlled drugs, on 13 July 2005 and 19 May 2014. There is also a suspended sentence Supervision Order for assault on 3 July 2018. Neither party has served a custodial sentence.

Both of you have been on bail throughout.

The case involved four postal packets intercepted by Customs.

Cogent and indeed unanswerable evidence was found upon analysing the messages on both defendants' mobile phones. We heard and read these at the trial and the Prosecution gave details.

Both defendants initially denied any responsibility for the offences at interview.

The drugs were synthetic cannabinoids, total imported 293 grams. Based solely on weight, Guernsey street value, we are told - £5,860 to £7,325. They were in liquid form. If sold locally at £100 - £130 per 10 ml bottle, the value ranges, we again are told, from £27,000 to £35,100, according to the Guernsey authorities' drug street price list.

Tara Le Poidevin's bank account showed seven transactions between 7 February 2021 and 6 April 2021, to the named dispatcher of these parcels in Nottingham and Derbyshire.

Sentencing Considerations

If the quantity, of 293 grams, was equated with cannabis, the starting point for sentences under the binding Richards guidelines for each Count is 3 – 6 years. This was the course followed by the Bailiff in the case of Shafaq and Williams, in this Court on 4 January 2022.

This Court, and the Guernsey Court of Appeal, have consistently regarded the misuse of the postal system as an aggravating factor, which it is.

We consider the correct approach is to aggregate the four offences together and get a combined total, representing our view of your overall criminality and then consider any mitigating factors. This is the simplest approach, and the totals reached would be the same whether this was the way the sentences are calculated or another way. There is one difference which will emerge when dealing with Tara Le Poidevin's case, based on her individual circumstances.

The total starting-point for each defendant is designed to reflect the repeat offences and misuse of the post. It is a total of 3 years and 6 months' imprisonment.

Mitigation

There is a very wide differentiation between the defendants here. Mr Shaw denied the offences and as stated, a full trial took place. Miss Le Poidevin admitted them and gave important evidence at the trial. In relation to Mr Shaw, he did agree to some of the witness statements being put in written form, thus shortening the length of the trial and we are told by the Court of Appeal that recognition of this should be given. That, putting it clearly, is the only mitigation. Had there been guilty pleas, a substantial discount would be given, but we are not adding anything on for the 'not guilty' pleas.

Mr Shaw still persisted in his accounts to the Probation officer and he also minimizes his own responsibility. In fact, the evidence was abundant and the convictions inevitable. We have carefully read the reports and considered the oral mitigation before we proceeded to sentence.

Miss Tara Le Poidevin has not been promised any inducement to give evidence against her co-accused and ex-partner. She frankly admitted her responsibility and assisted the Crown Officers in giving evidence. That is a considerable mitigating factor. People in her position, who assist Law Enforcement, will get, as the Court of Appeal said, substantial discounts and full recognition of their rôle. That should be clearly understood in future cases. Also, full credit is given for the good character in her case.

In respect of Mr Shaw, as stated, any discount is limited and we make it around 15%, erring if at all on the side of generosity.

Sentence

Mr Shaw, you took a leading rôle, tried to get out of it and, in the face of the evidence, failed. We sentence, bearing the totality principle in mind.

On each Count the sentence is 3 years' imprisonment, concurrent.

Total 3 years from today

Compulsory Supervision for one-quarter of the sentence upon your release.

Miss Le Poidevin, you have been skating on thin ice but, in view of the assistance given to the authorities, we are prepared to show considerable leniency and fall-in with the recommendation in the Probation report.

On Counts 1, 2 and 3, the sentence is 180 hours Community Service concurrent, totalling 180 hours, as a direct alternative to 12 months' imprisonment on each concurrent, ie 12 months' in all.

On Counts 1 to 3, if you don't do every hour, every minute, of your 180 hour order, you will be brought back here and almost certainly locked-up. The only good excuse will be a valid medical certificate.

On Count 4 we recognise the good sense of the suggestion in paragraph 13 of the Report and accordingly, on that Count, the sentence is 18 months' imprisonment, suspended for a period of 2 years. That means if you put a foot wrong in the next 2 years and commit any other offence that carries prison, you will get the 18 months added on top of it.

So you have got a lot hanging over your head. You have got to do all the hours of the Community Service or do a year inside and if you re-offend, you will get 18 months as well. That will almost certainly happen.

We repeat, that those defendants who help the Prosecution will likely receive full credit. One thing the Court wants to make very clear to you is, we know your problems and we understand those, but you must engage with the support that is available to you, because if you fall into those problems again, you are likely to reoffend or not do the Order.

You are walking today but I can promise you that if you do anything like this again, and certainly if I am around, because I have a long memory and a nasty disposition when people reoffend – you will go down those steps like your co-accused.

So you have got 180 hours Community Service, 1 year imprisonment if you don't do it and 18 months suspended for 2 years if you do anything else wrong you get that as well. You are walking today but you are not going to walk again. That is the Order of the Court, plus the Forfeiture and Destruction Orders as requested.

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

26 August 2022