

Importation of the Class A controlled drug Cocaine and attempting to pervert the course of justice.

[2023]GRC001

**ROYAL COURT
FULL COURT**

24th January 2023

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Stephen Murray Jones OBE, Claire Helen Le Pelley, Steven John Morris, Joanne Marie Wyatt,
David John Robilliard, Marilyn Jasmine King, Paul Martin Burnard, Felicity Jane Quevâtre-
Malcic, James, Robert Toynton.**

THE LAW OFFICERS OF THE CROWN

- v -

JOSEPH LOGAN

Advocate M S Davies appeared for the Crown

Advocate O C Fattorini appeared for the Defendant

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on an Indictment containing 2 Counts: Importing the Class A Controlled drug Cocaine and attempting to pervert the course of justice. The maximum penalty on each is life.

You are a native of Scotland, aged 42. You have, we are told, 11 previous convictions for 27 offences and have served custodial sentences. The last was June 2017, 5 years' for a serious assault and in 2006 concerning the supply of a controlled drug, 12 months.

You were apprehended at the Airport on the 8th October 2022, charged on the 13th October 2022 and have been in custody throughout. Timely guilty pleas were given.

We have heard the full facts of these offences. You were positive for Cocaine and THC at the Airport and taken to A&E. You were agitated and aggressive. From the 9th to the 12th October you were in the hospital and monitored by officers, throughout. You were also rather uncooperative. You tried to obstruct the investigation by flushing drugs down the toilet, despite the efforts of the escort. This necessitated the task of examining the hospital drainage system and eventually two Kinder Eggs you had internally concealed were found. You stated there were 2 more packages, which you passed. The total weight was 84.98 grams of Cocaine.

You exercised your right to silence in interview, apart from observing that you believed the officers had been waiting for you, and you had been "stitched up" by someone, and "they've taken advantage of my mental health." The total Guernsey street value at the time was £8,498 to £12,747.

Sentencing Considerations

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We are bound by a decision of the Guernsey Court of Appeal, recently re-affirmed, in cases such as this.

It is our task to select a starting point based on the facts of the offending, especially the amount and then proceed to consider any appropriate mitigation, in your favour.

For the quantity 50 per 100 grams of Class A powder, the band of sentences as a starting point is 9 to 12 years. We consider the second charge on all the surrounding facts, namely the totality principle being observed throughout.

Internal concealment is an aggravating factor, we then note the unedifying task of rooting through a hospital drainage system had to be dealt with. You also have, as I have said, a bad record. In addition, we are told there is a history of drug misuse.

You stated you believed you were bringing in a different drug, which is not relevant mitigation, even if accepted. You also state, you would have received £5,000 for carrying the packages. You believe, it is understood, you were being used as a decoy, which leaves the question as to why a decoy would be carrying around £10,000 worth of Cocaine, internally concealed. You have knowledge of organised crime in Scotland and you did commit the offence of importation for financial gain.

Taking account of the circumstances, there are relevant aggravating factors to which we have referred. We start at 11 years and 6 months for the importation and 1 year and 2 months for perverting the cause of justice, 12 years 8 months in all, as a starting point, noting as we have said the totality principle.

These were distinct offences and we are not double counting.

Mitigation

You could hardly have pleaded not guilty to these offences on the facts and it is not our task to go trawling around for mitigation when, in effect, there is very little. We note your mental health and, in particular, the consultant Psychiatrist's report of the 13th January, this year. He looked after you as in-patient after a suicide attempt and a history of alcohol and drug misuse. So, there was also this serious depressive episode last August. Helpful suggestions are made as to medication. We will attach a copy of this report to the Committal Warrant, so that the Guernsey Authorities are fully aware of your circumstances.

There is also a sensible letter from your partner, referring to the positive attempts at rehabilitation in Guernsey, as opposed to the Scottish Prison system, which she described as "rife with drugs." She states this is your final chance to turn your life around. You fear for your safety if sent to Scotland. We draw attention to these points, so that they may be considered by the appropriate authorities in Guernsey. Nevertheless, the Probation Officer considers you fall into a population with a high likelihood of re-offending. Erring on the side of leniency, we will give a total discount of just over 30%. There is no doubt you knew what you were doing and that it was against the law.

Would you please stand for a moment.

Sentence

So far you have not made a particularly good job of dealing with your problems. You have serious convictions, now compounded by coming to this Island with a substantial amount of a Class A drug, and your actions in trying to obstruct the investigation. You are now at the point where you do down all the way yourself, or you try to make something of your life. However, our main concern is stopping

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and deterring those who import drugs to Guernsey for personal gain. An element of deterrent is appropriate.

On Count 1, the sentence is 8 years' imprisonment and on Count 2, noting the totality principle, as indicated, 9 months' consecutive.

Total: 8 years and 9 months' with effect from 8th October, 2022 with Forfeiture and Destruction Orders, as requested.

I will not deal with the supervision matter, as you are not going to be in Guernsey after release.

Would you please go off with the Officer, thank you.

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

24th January 2023