

Breach of a suspended sentence.

[2023]GRC010

**ROYAL COURT  
FULL COURT**

**27<sup>th</sup> January 2023**

**Before: Catherine Maureen Fooks, Judge of the Royal Court 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,  
James Robert Toynton.**

**THE LAW OFFICERS OF THE CROWN**

- v -

**ABBIE MICHELLE SAUNDERS**

**Advocate M S Davis appeared for the Crown**

**Advocate S E Steel appeared for the Defendant**

**JUDGE OF THE ROYAL COURT:**

**Background**

Ms Saunders you appear today because you have breached the suspended sentence of 18 months suspended for 3 years, imposed by this Court on the 13<sup>th</sup> August 2020 in respect of one count of being concerned in the supplying of cannabis, between April and May 2019. Your co-defendant faced a similar count and you and he also received a Community Service Order for being in possession of cannabis jointly which sentence you have completed.

The drugs offence was committed when you were 17; you were 18 when you were sentenced. You are now just 21. You have breached the suspended sentence by committing an offence, namely drink-driving on the 7<sup>th</sup> October 2022, for which you received, on the 14<sup>th</sup> November 2022, a fine of £600 and a disqualification of 12 months. The reading was 43 in breath. You have been sent up to this Court to be dealt with for the breach of the suspended sentence.

The Prosecution has outlined the facts of the drugs offences. The Court has the benefit of its sentencing remarks from August 2020, the Social Enquiry Report prepared for that hearing and a Social Enquiry Report for today's hearing. I mention that there is a conviction recorded on your record for a drug offence on the 10<sup>th</sup> September 2020. We have been told that, although the sentencing of that was after the date of the sentencing for the suspended sentence, that offence was committed on the 22<sup>nd</sup> November 2019 and therefore is not relevant to our sentencing exercise.

We have listened carefully to your Advocate's sensible and compelling submissions and read your letter and the letters from your doctor and parents.

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As set out by the Prosecution, section 2(1) of the Criminal Justice Power to Suspend Sentence (Bailiwick of Guernsey) Law, 1972 under which you were sentenced in August 2020, gives the Court the following options when dealing with a breach:

- (1) Activating the suspended sentence in full;
- (2) activating it but reducing the term;
- (3) varying the period of suspension by extending it, which is not an option in your case as it is already at the maximum of 3 years, and finally;
- (4) making no Order.

The subsection continues (with my emphasis), “*and a Court **shall** make an order under the provisions of paragraph (a) of this sub section **unless** the Court is of opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence.*”

There is a presumption that the sentence will be activated in full. The Court has to bear in mind that the original Sentencing Court, applying considerations from the Criminal Justice Youth Detention (Bailiwick of Guernsey) Law, 1990, considered that the supplying offence was so serious that a non-custodial sentence could not be justified and imposed, a Youth Detention of 18 months suspended for the maximum period of 3 years.

It has been submitted to this Court that it would, in effect, be unjust to activate the sentence because:

- driving under the influence is not an offence of the same type, as the drugs offence in respect of which the suspended sentence was imposed so there is no pattern of re-offending,
- the reading was low, consistent with your account that you had consumed two drinks on an empty stomach and possibly on top of some medication,
- there is an absence of aggravating factors,
- it is said that you had an honest belief that you were under the limit,
- you have not been before this Court, there was of an offence of due care in the Magistrate’s Court for 29 out of 36 months of the suspended period,
- you had been working in a cleaning company and had set up your own business which has been suspended because you have been disqualified from driving,
- of your age,
- you have been taking steps to address your mental health needs,
- you are not assessed as needing any referral for alcohol abuse, and
- you are not such a risk to the public that a custodial sentence is necessary.

The Court is concerned that you demonstrated a lack of judgement linked to alcohol, which is not so far removed from your original drug offending. In particular, the Court is concerned you have re-offended despite the clear warning from the Bailiff that, “*We do that (i.e. impose a suspended sentence) because we consider that there is a realistic prospect that you are now, or shortly will be, sufficiently mature finally to have learned your lesson and so can be rehabilitated without being incarcerated*”, and he went on, “*we are taking this exceptional route ..... where .....you should recognise just how close you have come to going to Les Nicolles today. Because we believe you should ..... have the last opportunity to further what we are told you intend to do, now that you have learned your lesson, so as not to come before the Court ever again, you really should not waste this opportunity.*” And he then went on to warn you of the consequences of breach.

## **Sentence**

This Court considers the breach of a suspended sentence to be a very serious matter. The Law requires the Court to activate the sentence in full, unless it is unjust. In your case, the Court is persuaded that it

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would be unjust to activate it in full or in part, in all the circumstances and for the reasons put forward, but be in no doubt that any further breach will result in the activation of the suspended sentence.

You are walking away today because of the circumstances and especially the positive steps you had taken to leave behind your association with drugs and those who deal in them and to get your life in order. You must now continue on that path; get yourself a job and take the support offered to you by your parents and agencies. You are old enough to take control of your own life and choose between what's good and what's bad. We hope not to see you again.

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

**27<sup>th</sup> January 2023**