

Supplying a cannabis based product, contrary to section 14A(2) of the Misuse of Drugs (Bailiwick of Guernsey) Ordinance 1997, which constitutes an offence under section 17 of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974, as amended and importation of Class C drugs, namely steroids which bear the names Methandienone and Oxandrolone in contravention of the prohibition on importation imposed by section 2(1)(a) of the Misuse of Drugs Law.

**[2024]GRC053**

**ROYAL COURT  
FULL COURT**

**10<sup>th</sup> June 2024**

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:  
Steven John Morris, Stuart Michael Crisp, Marilyn Jasmine King, Tina Jane Le Poidevin,  
Paul Martin Burnard, Felicity Jane Quevâtre and Heather Reed.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**REECE NICHOLAS CHARLES BAUDAINS**

**-and-**

**NATHAN ALAN LUCAS**

**Advocate J D McVeigh appeared for the Crown  
Advocate O C Fattorini appeared for the Defendant Baudains  
Advocate C J Green appeared for the Defendant Lucas**

**JUDGE OF THE ROYAL COURT:**

**Background**

Mr Baudains and Mr Lucas you have each pleaded guilty to one count of supplying a cannabis based product, between 1<sup>st</sup> October 2022 and 11<sup>th</sup> October 2023 for medicinal use in humans, without or not in accordance with a prescription or the direction of a medical practitioner, contrary to section 14A(2) of the Misuse of Drugs (Bailiwick of Guernsey) Ordinance 1997, which constitutes an offence under section 17 of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974, as amended, the maximum penalty for which is four years' imprisonment and/or an unlimited fine.

Mr Lucas, you have also pleaded guilty to one count of being knowingly concerned in the fraudulent evasion of the prohibition on importation of goods contrary to section 77(1)(b) and 77(2) of the Customs and Excise General Provisions (Bailiwick of Guernsey) Law 1972, as amended, by your importation of Class C drugs, namely steroids which bear the names Methandienone (which is also called Methandrostenolone) and Oxandrolone on or around 10<sup>th</sup> October 2023 in contravention of the prohibition on importation imposed by section 2(1)(a) of the Misuse of Drugs Law. The maximum penalty is 14 years' imprisonment and/or an unlimited fine.

The facts are that, on 10<sup>th</sup> October 2023, officers intercepted a package containing the Class C drugs addressed to you Mr Lucas, at your address. It was later found to contain 336 Class C tablets. You

were arrested at a local gym the following day and you were interviewed twice. You denied all knowledge of the package, the use of steroids and any knowledge of Methandrostenolone. When you were asked about a small pot of medicinal cannabis bearing Mr Baudains' name found at your home, you admitted that you and he would supply each other with small quantities of prescribed medicinal cannabis when either of you had run out. You said that this had happened four times over the previous year. At one point, Mr Baudains had owed you 2 grammes. You said that no money had changed hands between the two of you. You accepted that you had committed an offence, albeit unknowingly and described it as a "silly mistake". Having provided your passcode, your devices were examined and provided clear evidence that you had been researching the type of Class C drugs in the package and specifically Dbol which is another name for one of them.

At your home was also found 0.24 grammes of Cannabis in a grinder. As a consequence of the pot at Mr Lucas' home, Mr Baudains, you were then arrested and interviewed. You also provided your passcodes. You admitted swapping small quantities of medicinal Cannabis with Mr Lucas once or twice a month so as to have different strains which tasted different.

Mr Lucas, you are 31 and Mr Baudains, you are 35. You were both born in England but are settled in Guernsey working, in Mr Baudain's case, as a self-employed stonemason and, in Mr Lucas's case, as a self-employed carpenter and kitchen fitter. Mr Baudains, you have previous convictions, many for driving, but also many for public order offences, for one of which you received a sentence of Youth Detention when you were 18 and your last conviction in 2014 (when you were 25 years old) was a relevant one for possession of Cannabis.

Mr Lucas, you have a shorter list of previous convictions, mostly for driving, though one of assault as a juvenile. Your last conviction is in 2015 (when you were 22 years old). This is the first appearance for both of you in the Royal Court.

You have both been on unconditional bail throughout the proceedings.

### **Sentencing Considerations**

There are no sentencing guidelines as such for offences relating to the supply of medicinal Cannabis under this particular statutory provision and it appears that this may be the first prosecution of its type. Equally, there are no sentencing guidelines for the importation of Class C drugs. The case of Richards does not apply but this Court relies on the general principles of quantity and role and the other principles set out in that case. Postal importation is always considered to be an aggravating factor. It is also accepted that there is no evidence of any intention to supply the Class C to others, rather they were to be used as an aid to Mr Lucas but, nonetheless, they increased the stock on the Island and there is the risk that they could fall into the hands of third parties.

The Class C offending clearly crosses the custody threshold. In relation to the supplying offence, this Court has concluded that it also crosses the custody threshold, although the quantities involved are small on the account of either of you and it is accepted that there was a level of ignorance that you were offending – which of course is not a defence. It is also accepted that they were supplied, one to the other, by each of you. You each had a prescription – there was no financial gain. In relation to the starting point for the supplying offence, we consider that the appropriate one is one of 1 year, taking into account all the factors and specifically, that there was no evidence that the medicinal Cannabis was for supply outside the two of you.

Mr Lucas, in your case we set the starting point for the Class C importation at 2½ years which we would aggravate to take into account the postal importation but we leave at 2½ years to reflect totality in your case.

### **Mitigation**

## Plea

As your pleas were entered at an early stage, we are able to afford you both full credit for your guilty pleas.

## Personal Mitigation

The Court has considered carefully the helpful and detailed Social Enquiry Reports prepared in respect of each of you. We have also listened to the helpful submissions of your Advocates.

Mr Lucas, we have also heard from you and taken that into account. We have read your letter Mr Lucas and we have read the references provided in respect of both of you. They attest to two hard-working men dedicated to their families and to the remorse demonstrated by each of you. Importantly, they do not seek to minimise what you have done.

## Mr Baudains

Mr Baudains, we give you credit for your co-operation and your admission of offending at the earliest opportunity. You do have a relevant previous conviction but we note its age. The Court process has brought home to you that supplying Cannabis is not a matter to be taken lightly.

You had a troubled start to life, reflected in your previous-convictions but you have a good work ethic and you have balanced that with your family responsibilities to leave the past behind were it not for this offending.

Your former employer and your current business partner write of your progression as a stonemason and your generosity with your time including to the community. You have, last year, established a new business which would be affected in the event of an immediate custodial sentence.

You are described as an amiable and truly genuine person. You have two children, one a young adult who is employed by you and has her home with you and the other, now 8, who shares her time between your home and her mother's home. Her mother's letter described an exemplary co-parenting arrangement.

Mr Baudains, you are assessed as having a medium risk of re-offending for which the report writer says should be treated as reduced, given that it is based on historic offending and she is confident that you have grasped the importance of not supplying medicinal Cannabis.

## Mr Lucas

Mr Lucas, your previous convictions are old and not relevant. Whilst you were open about the medicinal Cannabis offence, your persistent denials of the importation offence at interview are not to your credit but your response since then - "drowning in regret" - has been as it should be, as you have taken on board the impact of your offending on the community and your family.

We note your ADHD and other issues, your particularly difficult early life and the tragic losses of close family members when you were still a child/young man. It is clear that your wife is, as you put it, "your rock" and that, apart from these offences, you are a devoted family man working hard to maintain your family which includes a very young child of 10 months.

Your Advocate explained that your motivation for ordering the Class C tablets was a misguided attempt to address the medical issue referred to in the letter from the MSG, handed into us today. Your uncle's letter echoed that explanation and the impact of your neurodiversity on your decision making.

We take into account the impact on your business were you to be imprisoned.

You are assessed as having a low likelihood of re-offending.

Mr Baudains and Mr Lucas, neither of you is assessed as needing any supervision, though there are suggestions in both reports that you would benefit from assistance with issues. You are both said to have been significantly stressed by these proceedings.

We note that there is no drug trafficking investigation in respect of either of you because there is no evidence of financial gain.

### **Sentence**

In accordance with Bourgaize v the Law Officers of the Crown 2014 (Jmt 49), the Court is required specifically to consider the Article 8 rights of minor children and others affected by your being imprisoned as well as you yourselves.

A sentence of imprisonment, by definition interferes with family life. The imposition of a sentence of imprisonment for a serious criminal offence is in accordance with law and in pursuit of a legitimate aim within Article 8.2. Parents who commit serious offences face prison like everyone else. The issue for this Court is always whether the imposition of an immediate custodial sentence would be a proportionate interference with family life given the balance between the various factors.

You both have young children who would be cared for well by their mothers were you to be imprisoned. Mr Baudains, you are the sole carer for your younger daughter when she is with you. You also have your adult daughter who lives with you and is employed by you and we take account of these impacts also. It goes without saying that there would be an emotional and financial impact on all the children and also on Mr Lucas' wife who of course would be impacted financially. The Court has to balance these impacts against the legitimate aims of sentencing. In a case such as this, where the custody threshold has been passed, the balancing exercise entitles the Court to consider either reducing the length of the sentence or suspending it or imposing a Community Service Order as a direct alternative. The Court has undertaken the balancing exercise very carefully.

Those who supply or import drugs are committing serious offences which damage this community. Prescribed medicinal Cannabis must be kept for use by the patient for whom it is prescribed and the Court views as serious the abuse of the prescribed Cannabis system. But, in view of the length of the sentences which the Court has in mind, in view of your strong mitigation, your work ethics, the impact upon your families and the disproportionate effect that immediate custody would have on them, we have been able to consider alternatives.

In the case of the supplying offence, we are going to impose suspended sentences. You will not have to serve the suspended sentence of imprisonment unless, during the next 2 years you are convicted of an offence punishable with imprisonment. If you are convicted of such an offence, you will be liable to serve all or any part of the sentence. A suspended sentence is not a let off, it will hang over your heads for that period of time and those will be the consequences, so do not forget that. In relation to the supplying, there will also be a financial penalty of £750 each.

### **Mr Lucas only**

Mr Lucas, in the case of the importation of the Class C drug, we have decided to impose a Community Service Order, as a direct alternative to immediate custody. The Order is being made because of the seriousness of the offence. You are being given an opportunity to make a positive contribution to the community through unpaid work. We note you have signed a form stating that you are willing to be made subject to and understand the nature and effect of a Community Service Order, the power of the Court to review the Order and the consequences that may follow if you fail to comply with any of the requirements of the Order or if you are convicted of a further offence while the Order is in force. The

Court is satisfied that provision can be made for you to perform work and that you are a suitable person to perform work. Please note that if you fail to complete even 1 hour without a medical certificate, or commit any other offence, you will be brought back before this Court and you will face going to Prison.

Mr Lucas, it is said by you and others that you have made a big mistake and yes you have. You have risked everything that you have built up against the odds bearing in mind the issues that you have had to overcome. Mr Baudains, your offending was less serious but nonetheless, you also made a big mistake. Both of you, your Advocates and your referees, all say that the actions of each of you were out of character and will not be repeated. As Mr Lucas said, “You can’t change the past but you can change the future”. The Court is giving you the chance to stay with your families and to work in the Community. Guard those chances well; they will not come round again.

Having taken into account all that has been said and applying the appropriate discounts, the sentences will be as follows:

- In relation to Count 1 and Count 2 the supplying of the medicinal Cannabis, a sentence of 3 months’ imprisonment suspended for 2 years for each of you together with a fine for each of you in the sum of £750 which is payable within 7 days with 37 days in default;
- In relation to Count 3 for Mr Lucas, the importation of Class C, there will be a Community Service Order of 180 hours as a direct alternative to 12 months’ imprisonment and that is consecutive.

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 the forfeiture and destruction of the drugs and packaging which were lawfully seized and we are satisfied related to the offending, is also granted.

### **Summary of sentences**

#### Mr Baudains

- 3 months’ imprisonment suspended for 2 years, together with a fine of £750 payable as above.

#### Mr Lucas

- 3 months’ imprisonment suspended for 2 years, together with a fine of £750 plus a Community Service Order of 180 hours, as a direct alternative to 12 months, consecutive; and
- the destruction of the drugs and packaging as I have said.

You will both be able to leave the Court once the Court has closed.

**Catherine Maureen Fooks**

**Judge of the Royal Court**

**10<sup>th</sup> June 2024**