

Unlawful importation of the Class A controlled drugs MDMA and LSD, contrary to section 2(1)(a) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 and Regulation of Investigatory Powers Law offences, failing to provide PIN numbers for mobile devices.

[2024]GRC046

**ROYAL COURT
FULL COURT**

13th June 2024

**Before: John Russell Finch, Esq., OBE, Lieutenant Bailiff; and Jurats:
Stephen Murray Jones OBE, Steven John Morris, David John Robilliard,
Marilyn Jasmine King, Paul Martin Burnard, Heather Reed
and David James Mortimer**

THE LAW OFFICERS OF THE CROWN

- v -

**CRISTIANO HENRIQUES CARVALHO
&
COURTNEY CASEY
&
EDMILTON DAVID HENRIQUES DE JESUS
&
BRENDAN McCAULEY JONES
&
JESSIE CHEVERALL**

Advocate L M Roffey appeared for the Crown

Advocate A B Davies appeared for the First Defendant (Carvalho)

Advocate S Mallett appeared for the Second Defendant (Casey)

Advocate S E Steel appeared for the Third Defendant (De Jesus)

Advocate O Fattorini appeared for the Fourth Defendant (Jones)

Advocate C J Green appeared for the Fifth Defendant (Cheverall)

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on an Indictment containing 5 Counts. Counts 1 and 2 concern all five of you and refer to the unlawful importation of controlled drugs of Class A. Count 1 relates to MDMA. Count 2 to LSD. Counts 3, 4 and 5 concerned so-called RIPL – Regulation of Investigatory Powers Law offences, failing to provide PIN numbers for mobile devices.

Count 3 for Carvalho; Count 4 for Jones and Count 5 for De Jesus. The maximum penalties for Counts 1 and 2 are life. Counts 3, 4 and 5, 5 years.

Mr Jones is 21. The other 4 of you are 19, 20, 20 and 19 that means that those under 21 face sentences of Youth Detention and Mr Jones, imprisonment. We understand that Mr Jones and Mr De Jesus have been in custody since 17 November last year and Ms Cheverall in custody since 01 December. Carvalho and Miss Casey in custody since 11 November, 2023.

De Jesus is the only one with convictions - which are unrelated. We treat all five defendants, however, as being of previous good character.

We have heard the facts of the case at appropriate length and will not repeat them in full, suffice it to say that Carvalho and Miss Casey arrived here on the Condor Ferry on 09 November and were not stopped by Customs. On 12 November, Miss Casey created a Condor Ferry travel booking in the names of Messrs Jones and De Jesus for a one-way trip to Guernsey on 14 November, 2023. On 13 November, Miss Cheverall made a further one-way booking. On 14 November the earlier booking of 12 November was updated to include a return trip on 15 November and adding Miss Cheverall as a third passenger.

The ferry eventually arrived in Guernsey on 15 November. Messrs Jones and De Jesus and Miss Cheverall were stopped by the Customs. They gave what can be summarised as unconvincing reasons for coming to the Island. In De Jesus' baggage six unopened condoms, four balloons and a partial used tub of Vaseline were found. These are items associated with the internal concealment of drugs. A search revealed two cylindrical packages wedged between De Jesus's scrotum and groin. These were found to comprise 187.39 grams of MDMA (Ecstasy), estimated total 478 tablets.

Jones would not consent to a search, stating that there were no powers to search him as the officers were not Police. An enforced strip search took place. Upon the trousers being removed, a package fell out. Later a second package fell out and when asked Mr Jones produced another package from his pocket. The first two packages contained 68.43 grams (estimated total of 177 tablets) and 188.44 grams (estimated total of 304 tablets) of MDMA. The third package contained 393.5 LSD tablets. We have seen the photographs, of course.

Miss Cheverall's handbag gave a positive drug iron scan reading. A small tub of Vaseline was located in her coat pocket. Other searches were negative.

Carvalho and Miss Casey were waiting around the Harbour Terminal on 15 November, 2023 and were watching the passengers disembark. They moved about, and when they saw Customs officers approach the Terminal, they decamped hurriedly. Later that day an Aurigny booking for London was made with Miss Casey's email, just as the earlier Condor booking we mentioned. The two were arrested at the Airport. Miss Casey had £3,000 in bundles in her belongings.

We have heard about the RIPL notices. Mr Jones refused to sign his. Mr De Jesus behaved arrogantly and ripped up his copy. No PINs were provided. Mr Carvalho did provide codes that did not work, apart from one phone.

Whilst in custody conversations took place between the accused, which we have heard details of. In one of them, Miss Casey referred to her booking on 12 November and was aware of the purpose of travel being the importation of drugs, as we heard from the Prosecution. Miss Cheverall's mobile phone provided relevant evidence, which we have heard about, including contact with Mr Jones and another individual contact.

We have noted, at length, what the authorities found on Miss Casey's phone, which were largely self-explanatory. One message to a contact is that "*the girl*" is going to "*snitch*" on her and "*she knows I'm involved*". Mr Carvalho also complied with a RIPL Notice in relation to one phone only. We have again heard the relevant messages.

In interview the four defendants exercised their right to silence, to which they are entitled. De Jesus was rude to the officers on what we have heard, in relation to questions that he did answer, in a manner of speaking.

Drugs

We deal with them as follows for valuation and weight: MDMA (Ecstasy) 959 tablets, Guernsey street value £19,180 to £23,975. LSD 393.50 tabs, Guernsey street value £4,722 to £5,902.50

Sentencing Considerations

Your Advocates will certainly have told you that we are bound by guidelines set-down by a higher court, the Court of Appeal. These have been in place since 2022, and were recently emphatically reiterated by that Court, and we are obliged to follow them.

Our first task is to select starting-points. The band given by the Court of Appeal, which are relevant today are:

Class A drugs – 1 to 500 tablets - 7 to 9 years.
500 to 1,000 tablets - 8 to 11 years.

Where more than one type of drug is imported the combined quantity is relevant. The extent of the offending is greater than if one drug only was involved. We need to assess the appropriate starting-point in respect of each offence and then a total starting-point taking into account the overall quantity. We then consider relevant mitigation. Concurrent sentences will be passed with the heavier sentence for the more serious offence. Your Advocates will be able to explain this in detail again, if required.

The MDMA ecstasy offence, Count 1, is the more serious offence due to the quantity. The amount is only a little under 1,000, the top of the range given. Adding up the tablets/tabs and the charges we come to a total of 1352.50 tablets and the band of sentences for 1,000 to 2,500 Class A tablets is 9 to 12 years as a starting-point, so it would be wrong to go above that minimum, in our judgement.

Taking these points, particularly the last one, into account. We therefore select a combined starting-point of 10 years. We will deal with the three RIPL offences in a moment.

Mitigation

With all that in mind we need to consider what is in your favour i.e. relevant mitigation.

The guilty pleas are always mitigation, but the evidence, as it emerged was compelling. However, a sensible discount is appropriate here. We, as stated, treat you all as of previously good character. We have carefully considered what your Advocates have told us and the written references, as well as the detailed Probation reports. Another thing in your favour is your ages, you are young people and we are encouraged to give those some recognition. As mentioned, four of you are under 21 so it is not imprisonment but Youth Detention that you face.

Sentencing is not a mathematical exercise and must not be conducted as one. Every case is different and has to be approached on its own facts and merits. Nor, we stress, is sentencing an exercise normally carried out in the interests of defendants. Youth is not a licence to commit serious offences and expect

to receive excessively lenient or soft punishments. This is a serious case, including the worst class of controlled drugs.

Looking at this, we consider fairly the mitigation for the male defendants amounts to ½ of the sentence of 10 years we have chosen as a starting-point. It must be carefully understood that had you had been more mature adults the discounts would have been markedly less. We treat Jones the same as the younger offenders. However, on considering all the mitigation, we find the personal mitigation for Miss Casey and Miss Cheverall enables us to give a 60% discount.

RIPL Offences

People commit these offences, involving their PIN codes in cases where drugs are involved to avoid detection of further illegal activity. Again, we deduce, and the Court of Appeal has also agreed with this deduction, that we are entitled to make this: in other words, to hide other criminality. The mitigation is noticeably more limited here, as guilty pleas were largely inevitable. We need to stress that this non-co-operation which now has a 5-year maximum, will be treated severely. We start at 18 months for each of the three defendants and we afford a discount for each of them of ⅓.

Sentences

You were involved in this in different ways, but it was one enterprise. In this Royal Court we deal with drug offences on a very frequent basis. There is a temptation to import illegal substances, as the street price here is higher. The penalties are too. We note the misery caused by hard drugs very often, with people committing offences to get money to fund their addictions. The offences you are here for, in the words of the Guernsey Court of Appeal in the guideline case show that there is *“no justification for relaxing the general policy of the Courts of this Bailiwick in visiting drug-trafficking offences with condign punishment.”* We have carefully considered the totality of the sentences in all the circumstances.

You were all, in one or more ways, knowingly concerned in this serious and harmful set of offences. We have, of course, felt sympathy for many of the individual circumstances we have heard and read about, but such sympathy cannot be misplaced. We also have a good deal of sympathy for those people we see regularly, whose lives are wrecked by hard drugs, and the consequences to our Island community. Non-custodial measures in this case would be highly inappropriate and result in sentences wholly incompatible with decisions of this Royal Court and the Court of Appeal. We have, in our view, erred, if at all, on the side of mercy on the discounts we have given, but we emphasise finally in this case it is about a large importation of Class A drugs.

Jones

On Count 1 - 5 years' imprisonment,

On Count 2 - 4 years' imprisonment, concurrent,

On Count 4, RIPL offence – 12 months' imprisonment, consecutive.

Total: 6 years' imprisonment, with effect from 17 November, 2023.

Carvalho

Count 1 – 5 years' Youth Detention – the statutory grounds being the seriousness of the offences, the need to prevent crime and protect the public and these grounds apply throughout.

Count 2 – 4 years' Youth Detention, concurrent with the same grounds,

Count 3, RIPL offence – 12 months' Youth Detention, consecutive.

Total: 6 years' Youth Detention with effect from 11 December, 2023.

De Jesus

Count 1 – 5 years’ Youth Detention – on the grounds given earlier with your co-accused,
Count 2 – 4 years’ Youth Detention, concurrent,
Count 5, RIPL offence – 12 months’ Youth Detention, with the same grounds again,
consecutive.

Total: 6 years’ Youth Detention with effect from 17 November, 2023.

Miss Cheverall

Count 1 – 4 years’ Youth Detention with the same grounds as the other accused,
Count 2 – 3 years’ Youth Detention, concurrent.

Total: 4 years’ Youth Detention with effect from 01 December, 2023.

Miss Casey

Count 1 – 4 years’ Youth Detention with the same grounds as the other defendants,
Count 2 – 3 years’ Youth Detention, concurrent with the same grounds.

Total: 4 Years’ Youth Detention with effect from 11 December, 2023

- Forfeitures and Destruction Orders, as requested.
- Compulsory Supervision under the relevant legislation upon release.
- Drug Trafficking for Carvalho adjourned to a Plea and Directions Hearing on 01 August, 2023.

We express our appreciation to the Guernsey Border Agency for detecting and preventing this very serious importation of Class A drugs, which are of course, I repeat, the most serious category of unlawful drugs, both in the Island and Bailiwick of Guernsey and in the United Kingdom.

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

13th June 2024