

Being concerned in the supplying of a controlled drug of Class B to another, contrary to section 3(3)(b) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, and dealing in cannabis resin from evidence from a phone. Failed to make the necessary Cash Controls declaration as required under sections 1(1) of the Cash Controls (Bailiwick of Guernsey) Law, 2007 in respect of £16,500.

[2024]GRC024

**ROYAL COURT
FULL COURT**

12th April 2024

**Before: Catherine Maureen Fooks, Judge of the Royal Court
and Jurats: Jonathan Grenfell Hooley, Steven John Morris,
Joanne Marie Wyatt, David John Robilliard, Stuart Michael Crisp,
Heather Reed and Richard Jeremy Wallen James**

THE LAW OFFICERS OF THE CROWN

- v -

DARREN JOHN PAUL EL METTOURI

**Advocate S G Watson appeared for the Crown
Advocate C J Green appeared for the Defendant**

JUDGE OF THE ROYAL COURT:

Background

Mr El Mettouri you have pleaded guilty to 3 counts on one Indictment. Counts 1 and 2 are of being concerned in the supplying of a controlled drug of Class B to another, contrary to section 3(3)(b) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974 as amended, the maximum penalty for which is 21 years' imprisonment. Count 1 covers the supplying of herbal cannabis between 6 January 2022 to 20 May 2023, which included herbal cannabis found at your home, together with the dealing in herbal cannabis found on your phone. Count 2 covers the dealing in cannabis resin evidenced on your phone on or around 9 February 2023.

The third count is a cash control offence that, on or around 9 May 2023, you failed to make the necessary Cash Controls declaration as required under sections 1(1) of the Cash Controls (Bailiwick of Guernsey) Law, 2007 in respect of £16,500 which you took to Jersey in excess of the £10,000 limit. The maximum penalty is 2 years' imprisonment.

The facts have been set out in great detail by the prosecuting Advocate and were accepted by your Advocate on your behalf. The short summary is that on 19 May 2023 you were arrested in Jersey, having arrived there with £16,500 in cash which you proceeded to hand over to a man in Jersey, all under the watchful gaze of Jersey Customs, who arrested you both. You were found to have 0.535 grams of cocaine which we do not take into account. Your phone was seized and, although you refused to give the passcode, it was examined and evidence of extensive dealing was discovered, which you accept shows evidence of supplying at least 900 grams of herbal cannabis plus reference to dealing with

no quantity specified in cannabis resin, also that you were getting at least 13 others to deal for you, as well as dealing for others including the Jersey man to whom you gave the £16,500 cash in bundles.

While you were under arrest in Guernsey your home was searched and 829.3 grams of herbal cannabis was found along with drug paraphernalia and growing equipment, though you denied growing any cannabis. The street values of the total cannabis identified as 1,720.30 grams is between £69,000 and £86,465.

At interview in Jersey and Guernsey you gave differing accounts about the money. You claimed not to be sure of the source of it but that it was owed by others to the Jersey man. You denied being under duress or in any debt. Evidence from your phone and seized from the Jersey man shows that you had been asked by him to bring across cash and the inference, which you did not challenge, is that the debt was yours to him for drugs supplied to you. It is the Prosecution case that you are part of a supply structure with him above you and others below you, which you do not dispute. You told Guernsey Officers that you were using the cannabis, which you bought in bulk, to treat back pain but you were inconsistent about the amount used. You claimed that the large amount of cannabis found at your home was for personal use, a claim you accept by your pleas will be and is indeed rejected by this Court.

You are a local man of 41 years of age now. You were 39 at the start of the Indictment period. You have previous convictions, most recently in 2012 for criminal damage and in 2011 for driving whilst under the influence of alcohol. You were sentenced to 2 years 6 months by this Court for a similar drugs offence in May 2006. Prior to that your record goes back to your early teenage years but comprises motoring offences and public order offences, with the exception of one drugs possession in 2000. You have been on unconditional bail throughout these proceedings.

Sentencing Considerations

Sentencing guidelines applicable to offences involving the supplying of drugs are contained in the case of Richards which guidelines have been reaffirmed by the Guernsey Court of Appeal in Barras, Watt and Orchard v Law Officers 2021, GCA045 and this Court will continue to follow those guidelines.

The starting point for a single offence involving a quantity of cannabis of up to 2 kilograms is 3 to 6 years. In your case, we will take Count 1 as the lead offence and we will take a starting point of 5½ years to reflect the quantity, (1,720.30 grams) and the role. Your role was as a middle ranking dealer. You were dealing for financial gain, as your dealing was well beyond what was necessary to fund your own drug habit and the financial transactions are in four figure sums.

There are aggravating factors in your case and we treat Count 2 (the dealing in cannabis resin in an unquantified amount) as an aggravating factor. This would attract a sentence at the lower end of the Richards guidelines if it were a standalone offence. We also consider your previous convictions to be an aggravating factor, albeit that we note the age of them. There is a specific previous conviction for a similar drugs offence and we note the lack of cooperation in the investigation and the dealing over a sustained period.

Count 2 and all of those aggravating factors lead us to the conclusion that the aggravated starting point, before consideration of plea and mitigation in the drugs offences should be 7½ years. We have decided to sentence the cash control offence separately. We take a starting point of 6 months which is aggravated to 9 months because of the use of the private boat to evade detection. So that means that we have revised starting points before consideration of plea and mitigation for the drugs 7½ years and, for the cash control offence, 9 months.

Mitigation Plea

The Court must now consider the impact of your pleas on sentence, perhaps generously, we afford you full credit for the guilty pleas to all offences.

Personal Mitigation

The Court has considered carefully the comprehensive Social Enquiry Report prepared in respect of you. We have also listened to the helpful submissions of your Advocate. We have read the references which speak so highly of you as a hardworking family man willing to go out of his way to help others and we have also carefully read your letter to the Court.

We take into account, as evidence of your good character, the heroism and selflessness demonstrated by you in preserving the life of a person who was virtually a stranger to you, as well as the life of her unborn child, both of whom might otherwise have drowned. We note what is said about your remorse. You have an excellent work ethic and have built up what is described as a thriving business but which you are now closing in anticipation of an immediate custodial sentence. You have explained that the cannabis was being used to treat back pain arising from a bad accident some years ago, but this treatment is not the recommended one. You have not been truthful as to why you have become so extensively involved in the supply of cannabis. As you have identified, you need to address your back pain in a different way.

You are a family man with two children of your own, as well as a partner with two children. You have shared care of your own children who spend 3 out of 7 nights per week with you. The children will be cared for by their respective family and, whilst there will be an impact financially arising from you receiving an immediate custodial sentence, neither family is totally financially dependent on you. Of course, there will be the emotional impact especially on your two children. We note also the concerns about the care of your parents.

In accordance with the case of Bourgaize v The Law Officers of the Crown 2014, (Judgment 49) the Court is required specifically to consider the Article 8 Rights of the minor children and others affected by you being imprisoned, as well you yourself. The sentence of imprisonment almost by definition interferes with family life. The imposition of a sentence 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. The Court has to balance the impact against the legitimate aims of sentencing in a serious drugs case, such as yours, which falls squarely within the Richards guidelines.

You are assessed as having a moderate likelihood of re-offending which we take into account. We note that there is a request for drug trafficking investigation, in respect of you.

It is a given, in this case, that the custody threshold has been past. Indeed your counsel realistically accepted that an immediate custodial sentence was inevitable. We have considered carefully the Article 8 Rights of those affected by such a sentence, but this cannot operate to reduce the sentence significantly and, in view of the length of the sentence, alternatives cannot be considered. In sentencing you we have taken into account the totality principle.

Sentence

In your letter you rightly accept full responsibility for your actions and their far-reaching consequences for you, your family, your employees and your customers. It is hard to accept that the loving hardworking person described in the letters is the same one who has been cynically dealing in cannabis at a significant level over a 16 month period in a dealing operation wider than just in Guernsey. The only sentence can be one of immediate custody. Make the most of the support available to you in prison, so that you can make good your assurance to us that you will not offend again.

Taking into account everything that has been said and applying the appropriate discounts and consideration of the totality principle the sentences will be as follows:

- **Count 1** – 4 years’ immediate custody.
- **Count 2** – 18 months’ immediate custody, concurrent.
- **Count 3** – 4 months’ immediate custody, consecutive.

Total sentence – **4 years 4 months’ immediate custody** from today.

In accordance with Section 1 of the Criminal Justice (Supervision of Offenders) (Bailiwick of Guernsey) Law, 2004, upon release or completion of any parole period, if applicable, you will be subject to supervision by the Probation Service for a period equal to one quarter of the total sentence or the period you would have served had you not received remission, which is the shorter. If you fail to comply with the conditions of the supervision, you will be liable to further imprisonment, a fine, or both.

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 three drugs exhibits which were lawfully seized, and clearly relate to the offending, is also granted.

We commend the joint working of the two Law Enforcement Departments in Guernsey and in Jersey in this matter.

Mr El Mettouri the total sentence is one of **4 years and 4 months’ immediate custody from today**, together with Forfeiture and Destruction of the drugs.

Catherine Maureen Fooks
Judge of the Royal Court

12th April 2024