

Making a false declaration relating to the importation of bulletproof shields and ballistic shields (“military items”) contrary to section 75(1)(a) of the Customs and Excise General Provisions (Bailiwick of Guernsey) Law, 1972 and contrary to section 77(1) being knowingly concerned in attempted fraudulent evasion of the prohibition of the exportation of military items, imposed by Article 1 of the Export Control (Military Security and Related Matters) (Bailiwick of Guernsey) Order, 2010.

[2024]GRC011

**ROYAL COURT  
FULL COURT**

**17th January, 2024**

**Before: Catherine Maureen Fooks, Judge of the Royal Court  
and Jurats: Steven John Morris, Joanne Marie Wyatt,  
David John Robilliard, Marilyn Jasmine King, Tina Jane Le Poidevin,  
Felicity Jane Quevâtre and Jillian Clark.**

**THE LAW OFFICERS OF THE CROWN**

- v -

**GAL FRIDMAN**

**Advocate F Russell appeared for the Crown**

**Advocate S Mallett appeared for the Defendant**

**JUDGE OF THE ROYAL COURT:**

**Background**

Mr Fridman you have pleaded guilty to 2 Counts on an Indictment as follows:

- 1) Making a false declaration relating to the importation of bulletproof shields and ballistic shields (“military items”) contrary to section 75(1)(a) of the Customs and Excise General Provisions (Bailiwick of Guernsey) Law, 1972. The maximum penalty is 2 years’ imprisonment and/or an unlimited fine.
- 2) Contrary to section 77(1) of the Customs and Excise Law, being knowingly concerned in attempted fraudulent evasion of the prohibition of the exportation of military items, imposed by Article 1 of the Export Control (Military Security and Related Matters) (Bailiwick of Guernsey) Order, 2010 (“the Order”). The maximum penalty is 10 years, plus a fine of up to level 4 or an amount 3 x the value of the goods, whichever is the greater.

The facts can be summarised thus: You are what you describe as a supplier of bespoke items comprising a wide range of items, as listed in your email to Customs (given to us by your Advocate today). That list includes what might be described as security items, and some of which are in fact restricted items. Your Advocate was able to confirm that you supplied personal safety items to a

well-known media agency. It is our assessment that you were operating in an environment where some of your items were restricted and you were aware that you needed to check regulations and you knew how to do so. There is no getting away from the fact that you trade under the name “Swedish Body Armour”. You have been in business for 30 years. You had arranged for the military items, 162 in number, to arrive in Guernsey by ferry from France. You asked a local freight company to handle and store them, the plan being to send most of them straight on by air and the remainder to Sark, where you would complete some finishing work on them. In your communications with the ferry and freight company you described the goods variously, but in essence as black polyurethane coated polyethylene plastic flotation boards with a value of € 6,023. The invoice was from a company based in China. You made an enquiry to Customs by the above email, which was primarily about import duties.

The freight company described the goods as “bulletproof shields” on their paperwork, based on that company’s research as what the Chinese manufacturing company made and consistent with your trading name. You asked that this be changed to “puncture resistant floatation buoyancy boards used in boats” and it was. When the goods arrived, 6 boxes described as “panels” were sent to Sark and the remaining 14 were collected by a different ferry operator for shipping to Macau. They were inspected by Customs and found to be 11 bulletproof shields and 60 smaller pieces of body armour and as such, restricted items under the Order. We have seen the items, which are much larger and heavier than the photos suggested. Those goods cannot be exported without a licence, for which you have not applied and there is an embargo in respect to their export to Macau. The bulletproof shields are labelled as “bulletproof shield” and carry your logo. The product details include that they offer protection, including National Institute of Justice markings with which you were familiar, and they refer to protection from AK47 weapons. The smaller shields are labelled “Ballistic Shield”, “small” and “body side” and on the latter, again, there is reference to protection from AK47. You told us that this was mislabelling. We have also seen photographs of the 6 boxes in Sark, which seem to show unfinished items.

Your three Police interviews have been set out fully by Crown Advocate Russell. You denied knowing that Macau was an embargoed country and that the items were military. You said that you had been sent the wrong items but decided to send them on anyway. When asked about the exchanges with the ferry company, which described the items as “bulletproof” you suggested that you were being framed. You denied that the removal of “bulletproof” was not to alert Customs to their true nature. You denied supplying any military agencies but accepted supplying items to those in the security business. You said that you were only the importer and not responsible for any licence, though you showed an understanding for the need for licences for certain goods. You said that there was no military in Macau. Your customer is longstanding and has supplied Police and Security services in the past. You gave your Advocate a document which she gave to us today, a picture of the boat and its specifications and which you showed as the sort of boat on which your customer wanted to use the panels. That document references the protection to the vessel from ammunition by virtue of those panels. Messages between you and a contact were read out by Crown Advocate Russell which put beyond question, in our view, that you were trying to hide the true nature of the goods and the risk that they would be stopped and seized and you in trouble. In terms of the value, we are told that you would have sold them for £27,629.

You are a Swedish national of 59 years of age with pre-settled UK residency. You have been resident in Sark, although not settled there, for about 3 years. You have no previous convictions. You have been on conditional bail throughout the proceedings.

### **Sentencing Considerations**

It is important to say something about the legislative framework in this matter. Crown Advocate Russell has helpfully summarised the purpose of export controls aimed at ensuring that the Bailiwick’s involvement in international trade does not contribute to regional instability, external aggression or internal repression by other States and regimes elsewhere. The Domestic Legislation

which gives effect to Guernsey's role in meeting those international obligations is the Export Control Guernsey Law, 2006, under which the Order is made. The Policy letter in support of that Law explains that an update to Bailiwick legislation was necessary at that time "*to ensure that it has an effective export control regime, which enables it to maintain its position as a responsible jurisdiction in the modern world*". It goes on to say that the 2006 Law will bring the regime in Guernsey into alignment with the Export Control Act, 2002, the purpose of which is to prevent the proliferation of weapons and supplies of arms to irresponsible regimes or groups. It was important to align Guernsey (and indeed all British territories at that time) with the UK in meeting the common international obligations. The 2010 Order imposes a licence requirement on the export of military goods.

In addition to export controls, countries may be subject to embargo and other sanctions, including transit controls in respect of military goods. Where countries are so listed, export licences are not generally issued. According to His Majesty's Government website, since 1988, following Chinese military action to suppress demonstrations in Beijing, and in view of ongoing Human Rights concerns, the UK has observed an embargo on trade in certain items with mainland China, which was extended to Macau. It became subject to transit of military goods controls in 2002. Guernsey must play its part on the international stage in terms of enforcing the restrictions put in place to achieve the common aims. There is therefore, a strong public interest in the prosecution of such matters in Guernsey.

This is the first case involving the export of military items. There is no local guideline case, or even a previous case to which to refer. As is often the case, the Court has looked to England for helpful guidance and the Court is grateful to Crown Advocate Russell for the materials she provided. In England the current approach is to use a system of compound penalties rather than prosecutions, which system is not available in Guernsey. This has changed the nature of any prosecutions in England and Advocate Mallett rightly advises caution in looking at such cases as there are. The case of R v Knight (John) [2008] 2 Cr.App.R (S) 76, concerned the sale of firearms in circumstances which are quite distinguishable from your case, but the general principles to be applied are of assistance and we have adapted them to your case, as Advocate Mallett put it, on a common sense basis.

First, the nature of the items - Advocate Mallett emphasised that these were defensive items, but we observed that being protected by such items, the wearer is enabled to carry out acts with protection. They are items of armour.

Secondly, the quantities and value - 162 items, so not a huge consignment; the value is the purchase price of € 6,000 or the sale price of £27,000.

Thirdly, the intended customer - this is rather opaque. We have a concern that these items could have been used for a purpose the embargo seeks to prevent or that they could have fallen into the wrong hands. You said that you were unaware of your customer's link to a gun shop. It seems to us that there has been a lack of due diligence.

Fourthly, the intended location - this is an embargoed country and that is an aggravating factor. You are an experienced trader, you know where to look and you should have done so. We note that it is unlikely that you would have got a licence.

Fifthly, the level of your involvement in the export - we consider that you were very involved. As an experienced operator, you knew that there were items which were on blocked lists and you knew that there were differences in regimes. The assertion that they were not military items is at odds with your trading name.

Sixthly, the degree of planning, your knowledge and your status - we are satisfied from your efforts to have the items renamed and especially from the messages that you knew what they were and that you should not be exporting them. Notwithstanding your email to Customs and that you answered the call

to Sark for entrepreneurs, which we accept does go some way to negate the inference that you had picked Sark as a jurisdiction where you would be under the radar, we remain concerned that there was an element of this. You wanted, in your words, to “test out” and we add “how alert Customs were.”

Seventhly, the sophistication and attempts to evade responsibility or create a false impression - we accept that this is not the most sophisticated offence; the items were openly packed in boxes and the offences confined to the declarations but you were clearly attempting to disguise the true nature to minimise seizure and problems.

It has to be said that your lack of transparency at interview and your conflicting answers to questions has left us dissatisfied that you are being fully open, even now. We certainly do not accept the explanation linked to floatation devices. We are satisfied that the motivation was financial gain.

In our judgment this is a very serious matter and a significant element of deterrence is justified. We do not want those dealing in these kinds of items to come to the Bailiwick thinking that it might be a suitable place from which to export such items, undetected. We do acknowledge that this was an attempt, rather than a completed offence, but you had taken all the steps to complete it. We are in no doubt that the custody threshold is passed.

In all the circumstances, we set a starting-point of 20 months for the export offence, which we aggravate to 2 years to take account of the import offence. In relation to that, you deliberately misdescribed the goods, so as to avoid the scrutiny of Customs and Excise.

## **Plea**

We afford you full credit for your guilty pleas to all offences.

## **Personal Mitigation**

The Court has considered very carefully the helpful Social Enquiry Report prepared in respect of you. We have also listened to the comprehensive and compelling submissions of your Advocate, who has made very good points on your behalf. We have read the references provided which describe you as a hardworking, successful entrepreneur and as a kind man, who knows his obligations.

It is very much to your credit that you are a person of nearly 60 years with no previous convictions. We note that you have not expressed any remorse, you have continued to deny the offences, almost as far as could be consistent with a guilty plea and you have continued to complain about the consequences of the offences without accepting true responsibility for your actions. We note, and it is to your credit, that you provided the passcodes for your devices. The experience you have had is said to have been expensive and salutary.

We have been given a certain amount of information about your family, which we have taken fully into account. You have a 16 year old son, whom you have not seen for over a year, your elderly mother is terminally ill and your other children have been impacted by your offending. Your Advocate also made a strong representation that you have already been significantly punished because of the bail conditions which required you to remain in Sark and also the impact of the bail conditions on your ability to run your business, and particularly the impact of the seizure of your devices.

We take all that into account. We also take fully into account the fact that you are assessed as having a low to very low likelihood of general re-offending. No concerns are expressed in a wider context as to any risks that you might pose.

We have also specifically consider the position of your 16 year old son, as we must in accordance with Bourgaize v Law Officers of the Crown, 2014, Judgment 49. A sentence of imprisonment almost 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. The Court has not had a lot of information about your son, but it is accepted that your son will be missing you and your Advocate made the point that this is a critical time in his development. The Court has to balance the impact against the legitimate aims of sentencing in a serious case. In a case like this where the custody threshold has passed that enables the Court to look at non-custodial alternatives.

## **Sentence**

The Court has carefully considered alternatives to immediate custody and has specifically taken into account all the mitigation mentioned and the impact on your family, particularly your child, but in view of the seriousness of the offences the Court has concluded that alternatives to immediate custody are not appropriate in your case.

Mr Fridman, as I have said, the Court considers these matters to be serious and that an immediate custodial sentence is the only appropriate outcome for you today. There has to be a significant element of deterrence in such matters. In all the circumstances, you will be sentenced as follows:

Count 1 – 2 months’ imprisonment,  
Count 2 – 10 months’ imprisonment, consecutive.

That makes a total of **12 months’ imprisonment 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 if you had not received remission, whichever 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 22 of the Customs and Excise Law for forfeiture of the goods, which was not opposed, is granted.

The Crown’s application pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006 for forfeiture of the iPhone X and Apple Mac Book Pro 13 was opposed and we have considered very carefully the representations that your Advocate made, which could be categorised as an impassioned plea to retain those devices, based not on their financial value but the impact on your life in terms of the loss of your business contacts, your day to day life, which is contained on your devices and your personal photographs. The point was made to us, by her, that you had not backed up the devices. We do not accept that you cannot rebuild your files. You could have lost those devices at any time, and so the lack of backup is in your hands. We have considered the matter of the personal photographs but we consider that, in all the circumstances, the two items should be forfeit and we so order.

To summarise, therefore, the sentence is one of immediate custody of 12 months from today and the forfeiture of all the items as requested by the Law Officers.

Mr Fridman you may now go with the officers. Thank you very much to the interpreter.

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

**17<sup>th</sup> January, 2024**