

Knowingly concerned in assisting illegal entry into Guernsey, contrary to section 25(1)(a) of the Immigration Act, 1971, as extended to Guernsey.

[2024]GRC004

**ROYAL COURT
FULL COURT**

16th January 2024

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff
and Jurats: Stephen Murray Jones OBE, Steven John Morris,
Joanne Marie Wyatt, David John Robilliard, Marilyn Jasmine King,
Tina Jane Le Poidevin and Jillian Clark.**

THE LAW OFFICERS OF THE CROWN

- v -

DRIMIAND VUKA

**Advocate F Russell appeared for the Crown
Advocate S E Steel appeared for the Defendant**

LIEUTENANT BAILIFF:

Background

You appear here today for sentencing on one count of being knowingly concerned in assisting illegal entry into Guernsey, under the Immigration Act, 1971, as extended to Guernsey. The maximum sentence is 7 years' imprisonment and/or a fine.

You are a 25-year-old person of Albanian/Greek origin. You have settlement status in the UK, valid until 2025. You were living in London for 3 years and are now unemployed. You have a caution for theft here, at the time of this offence. You have been in custody since your arrest on 29th July last year and the matter was rightly sent to this Court. Put simply, you facilitated, you made easier, three Albanian persons coming into Guernsey, arranging their travel from France, arranging false ID cards and chaperoning them in the Island. Obviously, you were not acting on your own and there were others involved in this, as the Prosecution have correctly said, and also correctly say it was a well-organised unlawful activity. Your mobile phone messages bear this out.

After the three persons landed a Greek nation arrived at the Airport with three false Spanish ID cards, carrying photographs of these three Albanians. There was frequent phone contact between yourself and this person at the relevant time. The three Albanians were caught trying to travel to Poole by ferry and they were returned to France, from where they had travelled with you.

Your interviews with authorities were largely unproductive.

We have seen and taken note of the incriminating phone messages. It is in your favour that you provided the PIN number.

Sentencing Considerations

These offences are extremely rare in Guernsey, and we intend to see that that remains the case. We have taken note, as your Advocate has today of helpful English cases, where the Court has had to grapple with a serious of problems of immigration offences. I will, for the benefit of counsel, give the names of cases and the date.

In the case of R v Le and Stark [1999] it was said that this type of offence very often calls for deterrent sentences. Various aggravating factors, factors that makes things worse were noted, and they are relevant in this case today. Strangers were involved, there was likely financial gain and a degree of planning and organisation.

In the case of R v Ali [2001] it was noted that previous good character and personal circumstances are of limited value. Cases will be sentenced on a deterrent basis. In the case of R v Rotsias [2013], which involves an Albanian, it was stated that these type of offences will routinely attract sentences of 3 – 8 years, though of course here the statutory maximum is 7 years. Aggravating factors, factors that make things worse, were those set out I mentioned in the case in 1999 Le and Stark. Finally, in the Attorney General's reference No.28 of 2014, reinforced these judgments. Aggravating factors included commercial motivation, whether it was strangers involved, and the degree of organisation. The cases are of general application.

Certainly the element of deterrent is a necessary factor in this case. Guernsey is not a dumping ground for illegal immigrants and must not be seen as a soft touch.

This was planned and organised, you were one among others. We, noting the duty this Court has to prevent this type of offence in this jurisdiction have a starting point of 5 years.

Mitigation

We are obliged to give some effect to your guilty plea, however practically inevitable upon the facts. As stated, you also gave your PIN number, thus avoiding another offence. We note that previous good character is of limited value, even though here there are no recorded convictions. We have noted carefully the written references as well. We have also carefully listened to what your Advocate has aid. The Probation Report does not materially help you. You were guarded in your responses and assessed as having committed the offence for financial gain.

In all the circumstances you are, in our judgement, entitled to some discount to take account of the rather limited mitigation. We assess this at around ¼, which takes note of the fact that in these cases the English Court of Appeal does not afford more than limited value to a lack of previous convictions.

Sentence

This was an organised and determined attempt to avoid the laws governing immigration. Had it succeeded Guernsey would have been a staging-post for their illegal entry into the UK. Guernsey is not, we again emphasise, a soft touch for these offences, and we give notice that further breaches of the law will likely attract enhanced penalties. It is right to factor in a level of deterrence, as previously stated. We hope that anyone inclined to break the laws on immigration will take note of this case. Don't try it here. The authorities are, as in this case, alert.

The sentence is 3 years and 9 months' imprisonment, with effect from 29th July, 2023 when you were first kept in custody.

Deportation

We are obliged under a Court of Appeal decision in 2007 to enquire, in particular, to your right to family life under Article 8 of the European Convention of Human Rights. The helpful Immigration Report states you have no family ties here at all. The balancing exercise which the Court of Appeal required comes down firmly on the side of deportation for such a serious case as this which affects what is known as the “Public Order” of Guernsey. Nothing has been put forward on your behalf here, and to be fair, you raised no objection.

The decision is not for this Royal Court, but a recommendation is made to his Excellency the Lieutenant-Governor, who makes the decision.

The seriousness of the offence allied to the complete lack of any ties here, in our judgement, makes a recommendation for deportation at the end of your sentence, inevitable. No other Articles of the Convention are involved. Your father and sister we are told are resident in the UK, but the situation is this recommendation, if accepted, will apply to the Crown Dependencies, such as Guernsey, Jersey and the Isle of Man, but will extend to the UK if the UK Secretary of State considers it appropriate.

Forfeiture

The iPhone has been used in this offence and is forfeited. The yacht, bought in July from a UK seller with an Italian national named as purchaser was also plainly used in the commission of this offence. No enquiries have been made since the boat has been detained, and, it too is forfeited. It was sold for £5,500 and any sale can accrue to the public purse here. There is no counter-vailing reason why such an order should not be made today.

Finally, the Court indicates this was good work by the Guernsey Authorities here, which we appreciate. That is the Order of the Court.

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

16th January 2024