

**ROYAL COURT  
FULL COURT**

**11<sup>th</sup> December, 2023**

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:  
Stephen Murray Jones OBE, Claire Helen Le Pelley, Jonathan Grenfell Hooley,  
David John Robilliard, Stuart Michael Crisp, Tina Jane Le Poidevin, Felicity Jane Quevâtre.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**DANIEL ROBERT OATES**

**Advocate J D McVeigh appeared for the Crown  
Advocate S E Steel appeared for the Defendant**

**LIEUTENANT BAILIFF:**

**Background**

You appear here today for sentence in respect of one count of being involved in the unlawful importation of 3 syringes containing a total of 8.1 grams of the Class A drug  $\Delta^9$  Tetrahydrocannabinol (THC). The local street value was between £81 and £105.30. It was a postal importation. You were convicted after a contested trial. You have moved now from Alderney to England, living in Huddersfield. The trial took place in March and you have been on bail and the case has been adjourned for serious medical reasons. You lived in Alderney for some 14 years, have a past drink-driving conviction, but we have treated you as effectively of previous good character. It is right to consider this importation as unsophisticated.

**Sentencing Considerations**

This case is covered by binding guidelines promulgated by the Court of Appeal. For Class A drugs, in an amount that will last more than a couple of days' personal supply, the starting-point is 7-9 years. There is no evidence of onward supply. But postal importations are serious.

Normally here we would start at 7 years, but this case is one very much on its own facts, as we shall explain shortly.

**Mitigation**

You do not receive any discount for pleading ‘not guilty’, but we do not add anything on for that. You are, however, as indicated to be treated as of previous good character. Further mitigation is appropriate as you agreed a good deal of evidence, considerably shortening the trial.

What is unique in this case is your state of health. We have reports from an oncologist at the MSG and full details from your present oncologist in Huddersfield; where as stated, you now live. We do not propose to add to your burden of poor health by reading them all out in detail. Suffice it to say that, very unfortunately, you had a bowel tumour removed here, but it has spread to your liver. As the Huddersfield consultant says: “This means any treatment will be given to control rather than be able to cure [your] cancer.” You are receiving medicines for diarrhoea and abdominal pain. You can have additional serious complications from your condition.

Cases where serious illness is involved have to be assessed and dealt with on their own individual facts. In a number of English Court of Appeal judgments, serious offenders with quite bad health problems still stayed in Prison on appeal. But here, the medical prognosis is control, not cure, plus the risk of further complications. The future is not rosy.

Courts always have a discretion to show exceptional leniency. Frequently the mitigation advanced for offenders does not constitute a reason for showing it. Indeed, we repeat the word ‘exceptional’ in your case. This is not a ticket that other people can wave at the Courts easily. But, looking at the seriousness of your condition and the prognosis, and also the fact you would need significant and ongoing medical care, we do not consider this is a case for immediate custody. If it were so, and there was only limited mitigation, we would be looking at around 4-5 years.

The ill-health of a convicted person will not often be effective mitigation, according to English appeal cases. However, in the case of Bernard (1997) it was added that “an offender’s serious medical condition may enable a Court, as an act of mercy in the exceptional circumstances of a particular case, rather than by virtue of any general principle, to impose a lesser sentence than would otherwise be appropriate”. The impact of an immediate custodial sentence upon you would be greater than it would be on an ordinary offender by a very large margin. Also the issue has been described as intensely fact-specific, which is why this case is, we must plainly state, on its own particular facts and does not amount to a precedent, otherwise than to apply the law as it is already. This is not new law.

## **Sentence**

Taking this all into account, and emphasizing that illness will only rarely amount to the level of mitigation shown in the present case, will be where we impose the maximum suspended sentence available under the legislation.

Accordingly, the sentence of the Court on you today is:

- **2 years’ imprisonment suspended for a period of 3 years.**
- There will be **Confiscation and Destruction Orders** as requested.

We need not spell out what this sentence means. We understand that you will now go back to Huddersfield and receive further treatment.

We repeat, this is a case on its own particular facts and that is the decision of this Court.

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

**11<sup>th</sup> December 2023**