

**ROYAL COURT
FULL COURT**

24th November, 2023

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Jonathan Grenfell Hooley,
Stuart Michael Crisp, Paul Martin Burnard, Felicity Jane Quevâtre, Heather Reed,
Simon Ernest Bodkin, James Robert Toynton, Jillian Clark and Richard Jeremy Wallen James.**

THE LAW OFFICERS OF THE CROWN

- v -

SHANE TOPLEY

Advocate P F Cobb appeared for the Crown

Advocate P Lockwood appeared for the Defendant

JUDGE OF THE ROYAL COURT:

Background

Mr Topley, you appear today because you have breached the suspended sentence of 2 years suspended for 3 years imposed by this Court on 13th August 2020 in respect of one count of being concerned in the supplying of cannabis. The suspension period expired on 12th August 2023. Your Co-Defendant faced a similar count and you and she also received a Community Service Order for being in possession of cannabis jointly, which sentence you have completed. The drugs offences were committed when you were 23. You were 24 when you were sentenced. You are now 27.

You have breached the suspended sentence by committing offences in March 2022 – driving with no Third Party Insurance. In August 2022 there was also a failure to comply with a parking sign and driving with no brake light for which, in June 2023, you were fined £700 and disqualified from driving for 18 months. You were sent up to this Court to be dealt with for the breach of the suspended sentence by reason of the no Third Party Insurance offence which is imprisonable. The other offences are not imprisonable and do not concern this Court. There was to be a hearing in this Court on 1st August 2023 which had to be adjourned as you were medically unfit to attend Court. It took a long time for the traffic matters to be sentenced in the Magistrate’s Court for a number of reasons as explained by your Advocate.

The Court is aware of the facts of the drugs offences. The Court has had the benefit of the sentencing remarks from August 2020, the Social Enquiry Report prepared for that hearing, the Social Enquiry Report prepared for the traffic matters and a short Social Enquiry Report for today’s hearing, although the latter cannot assist the Court as you have not engaged with the Probation Service.

As set out by Counsel, section 2(1) of the Criminal Justice (Powers To Suspend Sentence) (Bailiwick of Guernsey) Law 1972, under which you were sentenced in August 2020 gives the Court the following options when dealing with a breach by you:

- a. activating the suspended sentence in full;
- b. activating it but reducing its term; or
- c. making no order.

and the Law clearly states that there is a presumption that the sentence will be activated in full unless the Court is of the opinion that it would be unjust to do so in view of all the circumstances which have arisen since the suspended sentence was passed, including the facts of the subsequent offence.

We have considered the reports, the letter today from the Mental Health Services and your Advocate's comprehensive and persuasive submissions in which he explained the circumstances of the traffic offences and urged us to make no order. The Court was urged to order a psychiatric report in view of the concerns about your mental health. Such a report is unnecessary in view of the decision of the Court as to sentence but the Court hopes that you will be able to access the treatment you clearly need.

Sentence

This Court always considers the breach of a suspended sentence to be a very serious matter. The Law requires the Court to activate the sentence in full unless it is unjust to do so. In your case, the Court is persuaded that it would be unjust to activate it in full or in part, bearing in mind the nature and circumstances of the offence of no Third Party Insurance compared with the drugs offence, for which the suspended sentence was imposed, the passage of time and your current mental health difficulties. In those circumstances the Court makes no order and you are free to go.

Catherine Maureen Fooks
Judge of the Royal Court

24th November, 2023