

Cultivation of cannabis contrary to section 5(1) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, and supplying cannabis resin and herbal cannabis.

**[2023]GRC054**

**ROYAL COURT  
FULL COURT**

**6<sup>th</sup> September 2023**

**Before: Catherine Maureen Fooks, Judge of the Royal Court  
and Jurats: Claire Helen Le Pelley, Jonathan Grenfell Hooley,  
David John Robilliard, Marilyn Jasmine King, Felicity Jane Quevâtre,  
Heather Reed, Simon Ernest Bodkin, Jillian Clark and Richard Jeremy Wallen James**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**RHYS MOURANT**

**Advocate J D McVeigh appeared for the Crown**

**Advocate L C Roffey appeared for the Defendant**

**JUDGE OF THE ROYAL COURT:**

**Background**

These are the sentencing remarks of the Court. Mr Mourant you have pleaded guilty to 3 counts on an Indictment. The first count is the cultivation of cannabis contrary to section 5(1) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, which carries a maximum penalty of 14 years' imprisonment, or a fine, or both. The second and third counts are of supplying cannabis resin and herbal cannabis respectively, between 29<sup>th</sup> July and 26<sup>th</sup> August, 2022 contrary to section 33(b) of the same law and the maximum penalty is 21 years imprisonment, or a fine, or both.

The facts are that on 28<sup>th</sup> August, 2022 Police attended your rented room following a report by the owner/occupier of the property of a strong smell of cannabis and the discovery of a plant, which turned out to be cannabis. You were in the room when the Police arrived and directed the Officer to the small cupboard containing a growing tent in which was found a large plant, the material from which was found to weigh 19.9 grams. There was also a seedling, which was not analysed and some growing equipment, a blue light and a thermometer. You were arrested. Your Apple iPhone was seized. Analysis of your phone revealed a number of messages (read out by the Prosecution) concerning supply of cannabis resin and herbal cannabis with you contacting seven individuals asking if they wanted cannabis and giving details of prices, for example, £45 per gram or lower prices down to £38 per gram for bulk purchases of up to 15 grams. The messages also contained details of the quality of the product and which indicated that you had a quantity of it to sell. For example, you sent a photograph of a bar

of cannabis to one contact. Those messages also evidenced meetings to exchange cannabis and that some of the cannabis was medicinal.

At your two interviews you exercised your right to silence. You are a local man of 31 years of age, 30 at the time of offending. You have a long list of previous convictions, 13 convictions for 46 offences, starting when you were 16. In January 2017, you received 3 months for 3 counts of possession of controlled drugs. In March, 2018 you were sentenced to 4 years 11 months for offences, including supply and possession of controlled drugs. You were released in November, 2020. On 17<sup>th</sup> May, 2021 you received a Community Service Order as a direct alternative to 3 months for 2 counts of possession of controlled drugs. That Order has not been completed.

### **Sentencing Considerations**

You have been on unconditional bail throughout the proceedings. The sentencing principles applicable to offences involving the supply of drugs are contained in the case of Richards. Those guidelines were recently considered by the Court of Appeal in Barras, Watt and Orchard v Law Officers, 2021 GCA045 and re-affirmed as current and appropriate and the Court will continue to follow those guidelines.

There is no quantity of cannabis in this case in relation to the supplying, apart from the photograph of the bar. We note the short period of offending and the small group of known contacts.

The Court of Appeal in Marsh, Hardy and Fallaize v Law Officers of the Crown, 2007 – 08 GLR 1 held that the Richards guidelines also apply to cultivation cases based on potential yield for quantity and factoring in the sophistication and scale of the operation. The amount of cultivation in this case amounts to one plant. There is no analysis of the yield and Advocate Roffey made the valid point that it is not actually known whether it is a male or female plant. We accept that, but for the presence of the other charges, this matter might have been dealt with in the Magistrate's Court.

In relation to the supply matters, the starting point for each count of supply where it is standing alone would be 3 years. We are going to take a combined starting point of 3 years 6 months for all three offences, which we consider reflect the overall criminality and that is before taking into account aggravating and mitigating factors. In terms of aggravating factors, these offences have been committed whilst you were subject to a Magistrate's Court imposed Community Service Order for a similar offence. You have an appalling previous record, including numerous convictions for drug offences and we also consider it an aggravating factor that you were selling medicinal cannabis. We set the revised combined starting point before consideration of plea and personal mitigation at 4 years 3 months.

### **Plea and Mitigation**

The Court must first consider the impact of your guilty pleas on sentence. We afford you full credit for your guilty pleas to all offences entered at the earliest opportunity. The Court has considered carefully the informative and helpful Social Enquiry Report prepared in respect of you. We have also listened to the eloquent and succinct submissions of your Advocate.

You told the Probation Officer that your guilty pleas were for credit only and you were less than frank with Probation in your acceptance of the facts of the supplying counts. We have heard today that you take responsibility for your actions and that is to your credit. We note your very difficult background, your early introduction into alcohol, drugs and offending and your health issues which are listed in the Probation Report for which you receive a number of different prescribed medications as listed by your Advocate.

It is a positive that you want to engage in therapy to deal with your past and you should do so. The Probation Officer says that your risk of re-offending will not reduce until you do. We note that you told the Probation Officer that you had been out of prison for 5 years but in fact it is just under 3 and since your release in November, 2020 you had committed further drugs offences in May 2021, receiving

a Community Service Order of 100 hours. By September, 2022 you had not completed it and were unable to complete any more of it for medical reasons. That Order was suspended in March, 2023 when you breached it by committing the offences which have brought you here today. Whilst there have been reasons since September, 2022 that you could not complete it the Court is not impressed by your not having properly gone on with it before your health issues arose. We do note that you have not come to the attention of Law Enforcement in the years since these offences were committed.

You are assessed as having a very high likelihood of re-offending, which we have to take into account. We note that there is no request for a drug trafficking investigation in respect of you.

## **Sentence**

As I have indicated, the Court is satisfied that the custody threshold has been passed and in view of the seriousness of the offences the alternatives to immediate custody are not appropriate. Your explanation to Probation that you did not know what else to do when your medicinal cannabis prescription was cancelled shows that, despite your long experience of the criminal justice system, you are still willing to break the law and then try to justify your actions. Supplying drugs is a serious offence. Those who commit it can expect sentences of immediate custody. The supply of drugs ruins lives.

In sentencing you we have taken into account the totality principle.

Mr Mourant today there is no alternative to an immediate custodial sentence in view of the seriousness of the offences and particularly your record. You are not learning anything and it is time that you did so at the age of 31. Whatever you think about supplying cannabis it remains a serious offence. You did need to engage in the therapy work that has been recommended, otherwise we will continue to see you appearing here.

Taking into account everything that has been said and applying discounts the sentence will be as follows:

- Count 2** – 2 years’ immediate custody with effect from today,
- Count 3** – 2 years’ immediate custody with effect from today,
- Count 1** – which is the plant, no separate penalty.

The sentences are concurrent, so the sentence total is **2 years’ 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, 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 3 of the Police, Property and Forfeiture (Bailiwick of Guernsey) Law, 2006, which was not opposed, for forfeiture of the lawful seized iPhone, valued between £100 and £200 which relates to the offences, is granted, as is the Crown’s application pursuant to section 26 of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, which is not opposed, for the forfeiture and destruction of the plant.

In summary, you are being sentenced to a total term of imprisonment of 2 years from today and we order the forfeiture of the phone and forfeiture and destruction of the plant.

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

**6<sup>th</sup> September, 2023**