

**ROYAL COURT  
FULL COURT**

**14<sup>th</sup> July 2023**

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff  
and Jurats: Stephen Murray Jones OBE, Jonathan Grenfell Hooley,  
Steven John Morris, David John Robilliard, Stuart Michael Crisp, Marilyn Jasmine King, Tina  
Felicity Jane Quevâtre, Heather Reed, Simon Ernest Bodkin.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**NICOLAE LUCIAN BADARAU**

**Advocate C G Dunford appeared for the Crown  
Advocate P Lockwood appeared for the Defendant**

**LIEUTENANT BAILIFF:**

**Background**

You appear here today for sentence on one offence of failing to comply with a Notice served under the Regulation of Investigatory Powers Law, 2003. The maximum penalty then was 2 years' imprisonment.

You are a non-local person, aged 38. You have been working in Exeter and hold settled status, granted in the UK 2 years ago. You have no local connections here at all.

You have been in custody since 2<sup>nd</sup> December 2022, when you were arrested. A not guilty plea was originally entered but changed on 25<sup>th</sup> May. You had also pleaded not guilty to a drugs importation offence, which for reasons we have heard, is no longer being proceeded with. When stopped by Guernsey Customs at the harbour, from the Poole ferry you gave evasive reply. Positive readings for cocaine were found and also two clear indications from the detection dog. Four packages of white powder in the interior of the vehicle were found and you were given a Notice requiring you to give up the passcode to the iPhone, which you have failed to comply with. The packages upon examination gave a positive indication of barbiturates, ketamine to the field test. The States analyst found each package contained around 250 grams of powdered caffeine and traces, very minor traces we have heard, of cocaine.

A forensic examination of your Android phone showed two photographs of a block of white powder and word documents, method one and method two displaying a series of messages for what looked like ecstasy production, sent to you by another person. There were also various conversations, including one to another person updating them on your Guernsey trip. Another conversation included messages such as, "*around 3 o'clock I can meet our friend.*" Your fingerprints were found on the packing of the four packages, which had been found in the car. There was an unproductive interview under caution.

On 15<sup>th</sup> March, a statement of proof was produced by your Advocate, signed by you. The Prosecution have also explained why the drug importation charge was not proceeded with. As stated, this is an unusual case.

### **Sentencing Considerations**

As has been recognised by the Court of Appeal, persons who refuse to give up passcodes on mobile and other devices, have something to hide. We are glad to hear that for offences, since your apprehension, the penalty has gone up to 5 years maximum.

We start here, consistently with other cases that we have dealt with at 12 months. All relevant matters have been taken into consideration in the sentencing process.

### **Mitigation**

The eventual guilty plea needs to be recognised. You also have no previous conviction, only a caution for battery. We have carefully listened to your Advocate and read the Probation Report. We treat you as of previous good character. We give a discount of  $\frac{1}{3}$ .

### **Sentence**

We must sentence on the offence before us. Taking everything in this, as stated, unusual offence into account. The sentence is 8 months' imprisonment with effect from 2<sup>nd</sup> December, 2022. This entails your release now, or very soon. No evidence has been offered and the matter of the drug matter is discharged and is no longer in existence.

### **Deportation**

Had you been convicted of drug importation we would have, unhesitatingly, recommended you for deportation. On the basis of the offence before the Court we do not do so. We want you to depart from Guernsey. You would not receive a work permit if you came back. All your family links are with the UK and your home country. There is nothing for you here.

### **Forfeiture**

As requested by the Prosecution, as it was used in the commission of crime.

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

**14<sup>TH</sup> July, 2023**