

Unlawful importation of Delta 9-THC, a controlled drug of Class A and Cannabis, a controlled drug of Class B.

[2023]GRC038

**ROYAL COURT
FULL COURT**

24th March 2023

**Before: John Russell Finch, Esq., O.B.E., Lieutenant Bailiff and Jurats:
Stephen Murray Jones OBE, Claire Helen Le Pelley, Terry John Ferbrache, Jonathan Grenfell
Hooley, Joanne Marie Wyatt, Stuart Michael Crisp, Marilyn Jasmine King, Heather Reed,
Jillian Clark.**

THE LAW OFFICERS OF THE CROWN

- v -

RYAN ASHLEY SEWARD

**Advocate F M Russell appeared for the Crown
Advocate C A Tee appeared for the Defendant**

LIEUTENANT BAILIFF:

Background

You appear here today for sentence on an Indictment containing two Counts: being knowingly concerned in the importation of Cannabis, a controlled drug of Class B and the same offence in relation to Delta 9-THC, a controlled drug of Class A. The maximum penalties are 21 years' and life imprisonment, respectively.

You are a 40 year old UK resident with a conviction for possession with intent to supply a Class B controlled drug in Suffolk back in 2009; for which you received a modest financial penalty. You have been on conditional bail throughout but indicated guilty pleas on the 19th January of this year. The offences being perpetrated on the 29th October last year.

You were apprehended whilst arriving at the White Rock. To cut a long story short, a total of 119.83 grams liquid containing Delta 9-THC was found upon examination in a black box and two vape pens with THC and 11.76 grams of Cannabis in two packages. The concentration of Delta 9-THC in the plastic bottle was much lower than in the vape pens. You indicated that all this was for personal use. Messages on your mobile phone showed you were aware of the illegality of your actions.

When interviewed you explained you intended to stay here for 10 days in connection with your flooring work. You confirmed you were a drug user but were not medically prescribed Cannabis. You frankly admitted you made a tremendous error and have done something so stupid. The bottle, you stated, had been around for several months but you purchased the vape pens which had a higher concentration of the active substance for £65 and £55. You later stated you had forgotten the bottle was there. We now

understand that you will be prescribed medicinal cannabis for various painful ailments which is the legal route to obtaining it. Your only connection with Guernsey, we are told is to visit a friend and provide him with flooring supplies.

Sentencing Considerations

Your experienced Advocate would have told you that the Court is bound by Court of Appeal guidelines in the case of Richards. They bind the Royal Court and we must apply them as a matter of law. Since that case we have seen developments in the nature of illicit drugs that we deal with. In particular, numerous new Class C substances and, as in your case, liquid Cannabinoids. The guidelines as stated are binding on us, but make it clear they are not a strait jacket, every case needs to be considered on its own individual facts, but we emphasize, the decision of a higher Court exists and we are obliged as a matter of law to follow it.

We therefore follow the clear guidance given in paragraph 11 of the Richards case, *“where the quantity of a drug is being considered in assessing the starting point this should primarily be based on weight and only to a lesser extent based on street price. Further, except in cases of very high purity, or where there is reason to believe the drugs will be cut before being passed on, the purity of drugs will not be a factor that will be taken into account in sentencing”*.

We mercifully start at a combined figure, taking both offences into consideration of 7 years' imprisonment. This is the starting point, it is our duty to now consider any applicable mitigation in your favour and apply to the particular facts of the case. The facts here are indicative of a user rather than a dealer. This is a lower starting point than would have been applied had there been evidence of onwards supply and it is on the particular facts. We also apply the guidance, which your Advocate is familiar with and was indicated to us in paragraph 5 of the Richards case. It cannot be stressed too strongly that this Court is not attempting to establish for the Royal Court, namely us, some sort of inflexible code which covers all of the issues involved in sentencing for such offences, some of which must, as yet, be unknown and incapable of anticipation. These are general guidelines only, sentencing is always a matter for the Court's discretion. It is an art not a science.

Mitigation

Guilty pleas were in your favour but hardly unexpected on the facts. As stated, we note your previous conviction, and the penalty imposed. We have to stress that a plea that drugs are for personal use is only effective where, in essence, they amount to one to two days' supply. This was not importation of a very small amount. We carefully note what your Advocate has ably put forward on your behalf and the good references. You do work and have frankly admitted your stupidity. The problem is, we emphasize, and we are unfortunately experienced in such matters, that even if a drug is brought in for personal use, it adds to the available stock in the island. This too, was recognised by the Court of Appeal in Richards and other cases. The recommendation of the Probation Report of the suspended sentence is not a practical one, in view of the decision of this Court and of the Court of Appeal. But going down to the basics, each case depends on its own particular facts and in the circumstances of this case we are generously affording you a considerable discount. This is not a case to be followed as a precedent. It is not to be cited beyond emphasising the proposition that each case is different. Taking everything into account we afford you a discount of somewhat over $\frac{2}{3}$. We note that you complied with your bail and returned here to face the music and your work record. You have got good personal mitigation.

Sentence

We apply the totality principle here. The sentences reflect the particular mitigation. It is of course correct that liquid Cannabis was not a familiar concept when Richards was decided. In respect of :

Count 1 – which is related to the Cannabis – 18 months' imprisonment.

Count 2 – the Class A Delta 9-THC – the sentence is 2 years' imprisonment concurrent.

Total: 2 years' from today

Destruction Orders as requested and Compulsory Supervision for ¼ of the total sentence.

I repeat, we have started at a starting point of 7 years', which was generous to you, and done so on the facts of the case - and in view of your good personal mitigation have gone right down to 2 years.

Will you please go with the Officers.

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

24th March 2023