

**ROYAL COURT
FULL COURT**

16 December 2024

**Before: Catherine Maureen Fooks, Judge of the Royal Court
and Jurats Stephen Murray Jones OBE, Tina Jane Le Poidevin,
Paul Martin Burnard, Felicity Jane Quevâtre, Simon Ernest Bodkin,
James Robert Toynton, Richard Jeremy Wallen James and Kay Parnwell**

THE LAW OFFICERS OF THE CROWN

- v -

JOHN RAYMOND NATHAN

Advocate C G Dunford appeared for the Crown

Advocate S E Steel appeared for the Defendant

JUDGE OF THE ROYAL COURT:

Background

Mr Nathan you have pleaded guilty to one Count of producing cannabis without a licence, contrary to Section 3(1) of The Misuse of Drugs Law, 1972, the maximum penalty for which is 21 years' imprisonment.

The facts are that a search warrant was executed at your home on 15th February, 2024 which uncovered a production of cannabis operation. Plants were being grown in two interconnected hydroponic tents. Equipment such as lights, fans, temperature and humidity reader, dehumidifier, propagator, chemicals and a sophisticated venting system were discovered, as well as extensive notes about the technical aspects of cultivation. There were 19 plants of various sizes in the tents and in the propagator and there were leaves and other cannabis.

In your written statement presented at Police interview, you asserted that the plants were not growing well and that the cultivation was not producing significant yield. You said that you were growing the plants for personal use to supplement your prescribed medicinal cannabis, which you were also supplementing by buying cannabis illegally. The photographs do show some healthy plants and a pile of healthy harvested leaves.

You were born in England but have lived here from an early age. You are 44 now, 43 at the time of the offence. You are a single man with no real work record. You have quite a list of previous convictions for various offences dating back to your teenage years, including offences of theft and criminal damage,

but, notably, in 2006 and 2012, for cultivation of cannabis which were dealt with in the Magistrate's Court with short custodial sentences, and in 2019 for a RIPL offence connected with a drug cultivation investigation for which you received from the Magistrate's Court a Community Service Order. You have been on unconditional bail throughout the proceedings.

Sentencing Considerations

The Court of Appeal in Marsh and Hardy and Fallaize v The Law Officers of the Crown [2007-08] GLR 1 gave guidance in respect of production offences. The Court said that the Richards guidelines apply, based on potential yield for quantity and factoring in the sophistication and scale of the operation. Marsh was a commercial operation but this Court considers that Marsh is equally applicable to domestic production cases and the Richards guidelines apply to all cultivations, the estimated yield of which fall within those guidelines with all the caveats mentioned as to estimated yield.

The Prosecution did not provide any bespoke evidence as to yield but has provided a calculation based on the generic scale as provided and used in other cases of an average of 22-40 grams per plant, which is taken from data provided by the United Nations Office on Drugs and Crime. That scale comes with a clear caveat as to variations for individual cultivation conditions. There is no evidence of supply to others or to contradict your assertion that you were growing for personal use, but even on your lowest yield figure, which is 10 grams per plant, (total 190 grams) or 20 grams per plant, (total 380 grams). The Amount of the yield is significant and falls within the first band of Richards and not within the very small quantity for personal use outside those guidelines. We note the healthy state of the plants and the quantity of cannabis elsewhere.

We set the initial starting point, before aggravating and mitigating factors, at 3½ years. There are aggravating factors. You have three previous convictions relating to the same offence. This time the scale of operation was sufficient to bring you to this Court. It was a sophisticated operation in terms of the equipment and growing conditions and it was an abuse of the medicinal cannabis prescription to be taking the seeds from it and using them to grow illegal cannabis. Taking all this into account, we set the revised starting point before consideration of plea and personal mitigation at 4½ years.

Mitigation

Plea

The Court must consider the impact of your guilty plea on sentence and we are able to afford you full credit for that guilty plea entered at the earliest opportunity.

Personal Mitigation

In terms of personal mitigation, the Court has considered carefully the helpful and realistic Social Enquiry Report prepared in respect of you. We have also listened to the sensible and focused submissions of your Advocate. We have read your letter.

Your early admissions and agreement that the plants were cannabis saved the investigators time and resources and your early remorse on arrest are all very much to your credit. You have had adverse experiences in your life. We have heard about your childhood trauma and we accept that you have ongoing mental health issues. You have sought some assistance from Guernsey Minds and Independence and you say that you have detoxed completely, voluntarily, for the longest period ever as an adult. We note the gaps in your criminal record, your non-drug offending ending in 2006 since which time there are only the cultivation offences.

You were clearly using a substantial amount of cannabis at the time of the offending. The report writer records that you were hoping to save the cost of your medicinal cannabis by growing your own, a hopeless plan which you can see now that your mind is clearer. You are described as having longstanding substance abuse problems since you were 14 and are assessed as having a high likelihood

of re-offending. Your previous substance abuse and long-held views which support cannabis cultivation feature heavily in the assessment. There is no recommendation for statutory supervision. You know what to do to avoid coming back here. We note that there is no request for a Drug Trafficking investigation in respect of you at this time.

Sentence

The Court is satisfied that the custody threshold has passed. Cultivation of such quantities of controlled drugs must attract custodial sentences as punishment and deterrence. Repeat offenders can only expect longer sentences each time.

Mr Nathan, you described your actions as stupid and you said that you have lost everything as a consequence. That pattern will continue unless and until you decide to stop your long association with drugs. Your Advocate has told us that you have. You are 44 now and it is time for you to make that change permanent, but only you can do that.

Taking into account everything that has been said and applying the appropriate discounts, the sentence will be one of 2 years 3 months 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 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 26 of The Misuse of Drugs Law, which is not opposed, for the forfeiture and destruction of the drugs and exhibits which are listed by the Prosecution in its outline which were all lawfully seized and relate to the offending is also granted.

I summarise, therefore, that the sentence is as follows:

- Total term of imprisonment, **2 years 3 months from today**.
- Forfeiture and Destruction of those drugs, exhibits and equipment.

Catherine Maureen Fooks
Judge of the Royal Court

16 December 2024