

Sentencing remarks regarding two Counts of being knowingly concerned in a fraudulent evasion of the prohibition of the importation of goods contrary to Section 77(1)(b) and Section 77(2) of The Customs and Excise General Provisions (Bailiwick of Guernsey) Law, 1972, as amended, by the importation, on 1 March 2024, of a Class A drug, namely  $\Delta^8$  - THC (Delta – 8 tetrahydrocannabinol) a cannabinol derivative (Count 1) and of a drug of Class B, cannabis (Count 2) in contravention of the prohibition of importation imposed by Section 2(1)(a) of The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended.

**[2025]GRC015**

**ROYAL COURT  
FULL COURT**

**7<sup>th</sup> February 2025**

**Before: Catherine Maureen Fooks, Judge of the Royal Court  
and Jurats: Stephen Murray Jones OBE, Steven John Morris,  
David John Robilliard MBE, Stuart Michael Crisp,  
Marilyn Jasmine King, Simon Ernest Bodkin  
and Ian Michael Brown.**

**THE LAW OFFICERS OF THE CROWN**

**- v -**

**CORY LUCAS CABRAL LE SAUVAGE  
and  
FILIPE CHRISTOPHER SMITH**

**Advocate S G Watson appeared for the Crown  
Advocate C J Fletcher appeared for Cory Lucas Cabral Le Sauvage  
Advocate S E Steel appeared for Filipe Christopher Smith**

**JUDGE OF THE ROYAL COURT:**

**Background**

Mr Le Sauvage you were found guilty of and Mr Smith you pleaded guilty to two Counts of being knowingly concerned in a fraudulent evasion of the prohibition of the importation of goods contrary to Section 77(1)(b) and Section 77(2) of The Customs and Excise General Provisions (Bailiwick of Guernsey) Law, 1972, as amended, by your importation, on 1 March 2024, of a Class A drug, namely  $\Delta^8$  - THC (Delta – 8 tetrahydrocannabinol) a cannabinol derivative (Count 1) and of a drug of Class B, cannabis (Count 2) in contravention of the prohibition of importation imposed by Section 2(1)(a) of The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended. The maximum penalty for Class A offence is life imprisonment and for the Class B offence is 21 years' imprisonment.

Mr Le Sauvage you have also pleaded guilty to failing to disclose certain information within seven days as required by a Notice served under Section 46 of The Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003 ("the RIPL offence"), the maximum sentence for which is 5 years' imprisonment.

Mr Smith you are the owner of a black SEAT car. Mr Smith and Mr Le Sauvage at the time were acquaintances or friends. Mr Smith was ordinarily living in the UK. You, Mr Smith, had travelled in and out of Guernsey with your car on 12 and 13 February. During a customs search officers noted a lack of spare wheel but you were allowed to go on your way. On 20 February, you came back to Guernsey by air and stayed with Mr Le Sauvage and his mother. Two days later both of you travelled to Poole by ferry as foot passengers and had tickets to return to Guernsey some 26 hours later but you stayed in England longer in which time you collected Mr Le Sauvage's car and the drugs which were imported into Guernsey. You each give different accounts of how events unfolded and who was responsible. We do not consider that those accounts have any significant impact on sentence.

You both returned to Guernsey by ferry on 1 March when you were stopped and questioned, and the drugs found concealed in the void next to the spare wheel and within the tyre of the spare wheel. Your interactions with the officers are summarised in the Prosecution outline. You were arrested and your phones were seized. Mr Smith provided his pin. Mr Le Sauvage you did not despite being issued with the requisite notice which you explained at interview and in mitigation as not wanting to be a 'snitch' (Count 3).

You were both interviewed, Mr Le Sauvage effectively denied the offences, Mr Smith exercised his right to silence. Mr Le Sauvage, at trial, you denied any involvement in the importations. The Court found you guilty.

The drugs in question are 19 pink candy bars which are called 'edibles' weighing in total 768.2 grams, which contained both  $\Delta^8$ -THC and  $\Delta^9$ -THC and another non-controlled THC substance. There is no valuation of these goods. There is also 142 grams of herbal cannabis with a street value given of £5,758 to £7,197 by the Prosecution which is disputed.

Mr Le Sauvage you are a local man of 23 years of age, 22 at the time of the offences. You have previous convictions from 2022, including one for possession of drugs. You received 15 weeks' custody in November 2023 in respect of assault and breach of bail offences. You were also given a Probation Order by the Magistrate's Court for other offences and were re-sentenced for breach of Community Service Order. You have breached the Probation Order by the commission of the offences for which you appear today.

Mr Smith you are a non-local man of 30 years of age, 29 at the time of the offences. You have a very long criminal record, including one conviction from Jamaica for attempting to export a controlled drug. You received 85 weeks' imprisonment in England in 2022 for offences including harassment and breach of orders.

You have both been in custody since 1 March 2024.

### **Sentencing Considerations**

The sentencing guidelines applicable to offences involving the importation of drugs are contained in the case of Richards. Those guidelines were considered by the Guernsey Court of Appeal in Barras, Watt and Orchard v Law Officers 2021, GCA 045 and re-affirmed as current and appropriate. The Court will continue to follow those guidelines. I emphasise that they are guidelines.

The sentencing guidelines make no reference to Class A cannabinoids in their various forms, and specifically candy bars like this, but the Court has been sentencing in respect of those Class A drugs on the basis of weight, as the primary means of calculating starting points, in accordance with Richards and then applying the flexible guidelines.

We have been referred to the reports of Dr Bullock, who is the States' Analyst and also the Defence expert, Mr Baker on whose report both defendants relied. In this case, it is submitted that the starting

point should be lowered significantly from the 14+ years indicated by weight alone on the Richards guidelines to 7 years, being the lowest starting point for Class A based on the amount of actual THC in the products, and it has been submitted that to do otherwise would be disproportionate. The evidence is that the total THC in each bar is 66 milligrams with an approximate margin of error of 10% giving a total of 1.18 grams in total of THC in the 19 candy bars. The bars themselves range in weight from approximately 35 to 44 grams.

We have read very carefully the Reports of Dr Bullock and Mr Baker and the Prosecution's submissions (which were made both in writing and orally) and we have listened very carefully to the oral submissions of counsel. In the end, the point being taken by the Defence Advocates is a narrower one that might appear from the bundle of documents which were supplied to us. The Law does not distinguish between different types of Class A drugs. The starting point is that the edibles are Class A drugs. The learned Judges of Appeal in Richards itself caution the Court against entertaining points about purity unless the purity is very high or there is reason to believe that the drugs will be cut before being passed on, neither of which applies here. Comparisons of potency with other drugs whether in the same Class or a different class, or no class at all are unhelpful. This Court does not encourage arguments about the purity or potency of individual drugs, nor arguments based on the amount of controlled substance in any given product. Nonetheless, we have been referred to the Royal Court case of The Law Officers of the Crown v Lamb [2022] GRC 056, which included consideration of a product containing  $\Delta^9$  THC. The Court on the facts of that particular case did reduce the starting point to take account of the constitution of the particular product in that case. We have also been referred to another case, the case of The Law Officers of the Crown v Bickley [2022] GRC 018 in which it was said that the Richards guidelines are flexible enough to take account of the different circumstances of any case, and that they provide a set of principles. That is how we are going to approach this case. Taking into account all of that, we are going to take a starting point for the Class A drugs of 9 years. In terms of role, both of you were well aware of the presence of the substance in the car; you both knew that they were Class A substances and it is our decision that there is no significant difference between the roles of the two of you.

We will then aggravate that starting point to take account of the Class B offence, which we consider would have had a standalone starting point of 3½ years based on weight. The RIPL is a separate matter. There are other aggravating factors in relation to the drugs offences, as follows:

1. concealment of the drugs;
2. relevant previous convictions of both of you;
3. poor criminal records, Mr Smith's being more significantly poor than Mr Le Sauvage's; and
4. in Mr Le Sauvage's case, the fact that he was subject to a Probation Order.

In the light of all of those aggravating factors and including the Class B offence we revise the starting point for Counts 1 to 12 years and will impose a concurrent sentence in respect of Count 2.

## **RIPL**

The Guernsey Court of Appeal in Barras, Watt and Orchard considered the sentencing in respect of RIPL offences and made four observations:

- failing to make the disclosure required by the notice issued under Section 46 is a serious matter; almost invariably calling for an immediate custodial sentence;
- the sentencing court is entitled to proceed on the basis that the failure to provide access is motivated by a desire to hide something, either to protect others involved in criminal activity or to conceal the accused's own more extensive criminality; in your case Mr Le Sauvage that is now borne out by the evidence;
- deterrence is an important aspect of sentencing in this context; and

- the appropriate sentence will, of course, depend on the particular circumstances of the case.

In your case, Mr Le Sauvage we take a starting point of 18 months and there are no aggravating factors, so it remains at 18 months.

## **Mitigation**

### **Plea**

The Court must now consider the impact of guilty pleas on sentence. Mr Le Sauvage, you indicated a guilty plea to the RIPL offence, which we take into account fully. Mr Smith you indicated guilty pleas to the importation offences at the earliest opportunity. You will both be afforded full credit for your guilty pleas. Mr Le Sauvage, you pleaded not guilty to the two importations and were tried and found guilty, so you are not entitled to any credit, nor will you be penalised for those not guilty pleas.

The Court has considered carefully the helpful Social Enquiry Report prepared in respect of you and we are grateful to counsel for their assistance and submissions. We have read all of the letters provided and taken them into account.

Mr Smith, we note from the Social Enquiry Report and other helpful documents set out your particularly shocking abusive childhood, your life experiences and the extreme trauma that you have suffered. The helpful psychiatric report refers to ADHD and C-PTSD and significant emotional difficulties. We note that you do not seek to use your past to excuse your behaviour. We note your early involvement with drugs and other offending, but we do note the date and circumstances of the offence committed in Jamaica. There is clear evidence of early remorse in your case, including the apology to the Court given at the time you entered your pleas. We note the giving of the PIN which led to incriminating evidence and we note that you had to await the outcome of Mr Le Sauvage's trial before you could be transferred off-island, which has impacted on your relationship with your family, including your children. I note, here, that we are not asked to consider the case of Bourgaize and I also note that would not have affected the sentence. These offences are too serious for Bourgaize to have any impact on them. We note that you accept responsibility for the offending and that you are able to acknowledge the impact of your offending on this community. We take full account of the content of your letter. We have ignored the issue raised in the email between counsel in the bundle. We note that you are trying to address your drug addiction and would like help with your mental health issues and we note your fears for the future, for yourself and your family but also your aspirations. We note the references which attest to your good characteristics and capacity for rehabilitation. You are assessed as having a very high likelihood of re-offending which we take into account.

Mr Le Sauvage, we take full account of what is said about you in the Social Enquiry Report and your mother's helpful letter about your difficult early life and your adverse childhood experiences, and your historic coping strategies of drugs and alcohol. You are still a young man and that is something which we can take into account in your case. It is to your credit that you were positively engaging with Probation prior to your remand in custody and that, whilst in prison, you are making the best of the opportunities to work and gain qualifications and that you are compliant with the prison regime. We note, in terms of offending, that, after a number of matters which went to the Convenor when you were a teenager, there was a gap in offending until you were 21 years old. The Education Report from prison describes you as working hard on your academic and other courses which is to your credit. The offending is assessed to be a result of very bad decision making on your part. You are assessed as having a medium likelihood of re-offending which we take into account.

We note that there is no request for a drug trafficking investigation in respect of either of you.

### **Sentence**

You both know that there can be no outcome other than immediate custody today and that is going to be for a long time. Importation of Class A drugs has to be marked, the public has to be protected and others deterred from this sort of offending. You are both ready for that outcome and you are both saying that you want to make the best of the opportunities you have in prison to turn your lives around. It is clear from what has been said on your behalf and written on your behalf that there can be light at the end of the tunnel for both of you. In sentencing you we have taken into account the totality principle. We have also taken into account the time served on remand.

I turn now briefly to the issue, Mr Le Sauvage, of the breach of the Probation Order, which under Section 14 of the Probation (Bailiwick of Guernsey) Law, 2018 gives this Court a number of options in respect of you. We have heard some details about the offences and we can see from the record other offences to which the Probation Order applies. Exceptionally, in the circumstances of your case we have decided that we will simply allow the Order to continue with no fine and we are not going to embark on any re-sentencing exercise in respect of you.

Taking into account all of the above and applying the appropriate discounts the sentencing will be as follows:

#### Mr Le Sauvage

- Count 1 – a sentence of 9½ years’ imprisonment and that sentence specifically takes into account totality and your age.
- Count 2 – there will be a sentence of 2½ years’ imprisonment which is concurrent.
- Count 3 (RIPL) – 1 year’s imprisonment which is consecutive.

**Total - 10½ years from 1 March 2024.**

#### Mr Smith

- Count 1 – custodial sentence of 6½ years.
- Count 2 – custodial sentence of 2 years, concurrent

**Total - 6½ years from 1 March 2024.**

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 the forfeiture of the lawfully seized iPhone belonging to Mr Le Sauvage and the Motorola phone belonging to Mr Smith valued at £24 to £30 and £27 to £60 respectively which relate to the offending is also granted, the Court having considered the likely effects on you of forfeiture.

The Crown’s application pursuant to Section 26 of the Misuse of Drugs (Bailiwick of Guernsey) law, 1974, as amended, which is not opposed, for the forfeiture and destruction of the edibles and herbal cannabis which were lawfully seized and clearly relate to the offences is also granted.

In summary the position is therefore as follows:

#### Mr Le Sauvage

- Total term of imprisonment 10½ years from 1 March 2024.
- Forfeiture and Destruction of what were the joint drugs.
- Forfeiture of the iPhone.
- No order is made in respect of the Probation Order, it continues.

Mr Smith

- Total term of imprisonment 6½ years from 1 March 2024.
- Forfeiture and Destruction of the joint drugs.
- Forfeiture of the Motorola phone.

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

**7<sup>th</sup> February 2025**