

Sentencing remarks regarding the following offences, Robbery contrary to Section 8(1) of the Theft (Bailiwick of Guernsey) Law, 1983, Burglary contrary to Section 9(1)(b) of the Theft Law and being concerned in the supplying of Class B drug, Cannabis to another contrary to Section 3(3)(b) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974

[2025]GRC038

**ROYAL COURT
FULL COURT**

28th April 2025

**Before: Catherine Maureen Fooks, Judge of the Royal Court
and Jurats: Claire Helen Le Pelley, Steven John Morris,
Marilyn Jasmine King, Tina Jane Le Poidevin,
Paul Martin Burnard, Simon Ernest Bodkin,
Ian Michael Brown, Kay Parnwell
and Sally-Ann David.**

THE LAW OFFICERS OF THE CROWN

- v -

RICHARD THOMAS CLARKE

Advocate L C Roffey appeared for the Crown

Advocate S E Steel appeared for the Defendant

JUDGE OF THE ROYAL COURT:

Background

Mr Clarke you have pleaded guilty to 3 Counts on two Indictments as follows:

- Count 1 – Robbery contrary to Section 8(1) of the Theft (Bailiwick of Guernsey) Law, 1983 (“the Theft Law”) in that on 30 April, 2024 at Vale Service Station you robbed Jamie Marsh of two money boxes containing a total of approximately £2,000 in cash, the maximum penalty for which is life imprisonment.
- Count 2 – Burglary contrary to Section 9(1)(b) of the Theft Law in that on 14 April, 2024 you entered Doyle Motors Convenience Store and stole lottery scratch cards to the value of £3,177 the maximum penalty for which is 14 years’ imprisonment.
- Count 3 – Being concerned between 9 and 14 April in the supplying of Class B drug, Cannabis to another contrary to Section 3(3)(b) of the Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, the maximum penalty for which is 21 years’ imprisonment.

You have also asked the Court to take into consideration a further offence of burglary of Oaty & Joey’s on 1 April, 2024 in which you stole £1,444.80 in cash.

The facts of the robbery have been outlined in detail by the prosecuting Advocate and we have seen the sickening and distressing CCTV. On 30 April, 2024 at 3.3am Mr Marsh, a 60 year old employee at the Vale Service Station, started his shift. The shop door was open, you entered furtively and launched a sustained and vicious attack against him, repeatedly punching him the head, chest and back and kicking his face and head as he lay on the floor. He said that you said that you wanted the money to which he replied "*take it*". As he went to his pocket to get the safe keys you can be seen straddling him, pinning him down by the throat, punching him and picking him up again and throwing him back to the floor where you continued to punch him. You continued wholly unnecessarily to attack him even when he is clearly trying to do what you want. He said that you threatened to use a knife. No knife was seen. Mr Marsh made it to the back office from which he gave you two money boxes each containing approximately £1,000 in cash. You claimed that they were empty. He managed to escape and you left shortly, thereafter, without the tins but that matters not as you had taken possession of them. Mr Marsh was able to summon the police. The description of the state he was in when officers attended is distressing. The Outline continues to record what was a painstaking and thorough investigation by the police, including the recovery of items worn by you in the robbery which had been discarded, forensic testing and cellsite and general analysis of your phone. You denied the offence when arrested and interviewed.

The injuries to Mr Marsh were extensive, with the main injuries to his face and head, including a fractured jaw and damage to his teeth, but injuries of his note to his chest (an apparent stamp mark) and other parts of his body, including a fracture to his knee were noted. The photographs speak for themselves. His hearing has been affected at least in the short term and he has had extensive dental work. Eating and nutrition were affected, he was in pain for months afterwards. We have read and heard his powerful Victim Impact Statement which details the serious impact on him physically and mentally, said to be likely to be life-long, with nightmares and ongoing headaches which have prevented his return to work. All aspects of his life have been affected, including his relationships with those close to him. He has been left isolated and wary of others when out. He desperately wants his life back and is determined to return to work.

The facts of the Doyle Motors burglary are straightforward. You forced entry, causing damage, and stole the lottery tickets, bizarrely returning to the scene when the police were there. Again, the police caught you through a careful and thorough investigation, once again linking you to the crime through CCTV analysis, forensic evidence from items you had discarded and mobile phone and cellsite analysis.

The facts on the drugs count are that analysis of your phone revealed that you had been supplying others with cannabis for profit. The Prosecution fairly concedes that this was at the lowest street level.

You were interviewed twice in relation to the burglary and drugs matters. You denied the burglary and otherwise exercised your right to silence.

The facts of the matter to be taken into consideration are that you forced entry into Oaty & Joey's and stole the cash. Again, you were linked to the burglary through forensic evidence, mobile phone analysis and CCTV evidence. When interviewed, you exercised your right to silence.

On arrest on 12 May you had £1,000 which you have said should go towards the payment of compensation and you have suggested that that should be to Mr Marsh.

You are a local man of 43 years of age, 41/42 at the time of offending. You have what can only be described as a dreadful record which includes a wide range of offences starting when you were a young boy (many of the early offences were theft and burglary) and continuing up to 2022. That record includes convictions for drugs, theft, burglary (the last one in 2006) and robbery in 2002. You were last released from prison on 26 August 2022 subject to an ACSO and a 3 year Probation Order which expired on 15 April 2024. You were, therefore, subject to statutory supervision at the time of the offences committed in relation to Doyle Motors, the drugs and the matter to be taken into consideration with reference to Oaty & Joey's but not in relation to the robbery.

You have been remanded in custody since 29 May 2024. You effectively, and reasonably, asked for sentence to be deferred until all investigations could be concluded.

Sentencing Considerations

The robbery offence is the most serious and we will set a starting point for it which we will aggravate to take into account the burglary and the matter to be taken into consideration. The burglary sentence will be concurrent. The drugs offence is unrelated so we will sentence it separately and all with an eye on totality.

Robbery is an offence which strikes at the very heart of this community and which must remain as rare as it is. Whilst the English Sentencing Guidelines are a helpful guide, especially in relation to aggravating and mitigating factors, this Court sentences offences of violence such as robbery on Guernsey on Guernsey considerations with a substantial deterrent element. That approach was endorsed by the Guernsey Court of Appeal in a number of cases, including in the case of Ryder v Law Officers of the Crown (2009-10) GLR 293.

In our assessment this was a particularly violent and dangerous attack and we set the starting point for the robbery at 8 years. There are aggravating factors as follows:

1. the extent of the physical and psychological harm to the victim;
2. that you were under the influence of drugs at the time;
3. that there was a threat to use a knife;
4. the offence was committed in the dead of night;
5. that there was an element of planning and, in particular, you hid your identity with clothing and your whereabouts, as we are satisfied that you had turned off our phone;
6. you attempted to dispose of your clothing;
7. you have previous conviction for the same offence, we note the date;
8. there is an impact, not only on the victim, but on the other workers at the garage; and
9. there are significant financial losses to the garage despite the fact that nothing was removed from the shop in the end.

In relation to the burglary, we would sentence that if it were being sentenced alone with a starting point of 4 years. There are aggravating factors in relation to that matter. Again, you were under the influence of drugs; there was a degree of planning; you hid your identity and whereabouts; there was an attempt to dispose of the evidence; previous convictions for burglary and you were under statutory supervision at the time.

We set the revised starting point for the robbery to include the burglary and Oaty & Joey's matters and the aggravating factors which I have mentioned before consideration of plea and personal mitigation, again, with an eye on totality at 12 years.

The sentencing guidelines applicable to offences involving the supplying of drugs are contained in the case of Richards and we will continue to follow those guidelines. In your case the quantities supplied and your role point to the lowest starting point for Class B drugs of 3 years. There are no particular aggravating or mitigating factors. We have already noted that you were under supervision. We have now starting points for the robbery, burglary matters of 12 years and for the drugs of 3 years.

Mitigation

Plea

The Court must first consider the impact of your guilty pleas. We accept that those pleas were entered at the earliest opportunity procedurally but we are persuaded that you had little choice other than to enter them based on the extensive evidence gathered by the police. We set the discount for the pleas at 20%.

Personal Mitigation

The Court has considered carefully the informative and realistic Social Enquiry Report prepared in respect of you. We have also listened to the sensible and succinct submissions of your Advocate. We have read your thoughtful letter. The reality is that you have little by way of mitigation to place before the Court. The offences were all mostly committed in April 2024, as you say, “*the month I went nuts*”. You say that you were in a desperate state with no settled home and misusing drugs to the extent that you do not even recognise your own behaviour. That is of course little comfort to the victims of your crimes, especially Mr Marsh.

You have expressed deep regret for the robbery, especially at the injuries you have caused to Mr Marsh and the fact that you wrote him a letter of apology is to your credit. You have also recognised, to an extent, the impact of the offences on the business owners and the community. Your motivation at the time, as you have said, was to feed your drugs habit.

We note your express reluctance to be involved with the drug offending but you did involve yourself, nonetheless. We do take into account the significant trauma of your early life. Your life and employment history have been interspersed with periods in prison after which you have struggled to resettle into the community and to manage your substance abuse, substance abuse which is borne of a need to numb yourself from those shocking life experiences. It is said that you are able to recognise that you will need significant support on release which is a positive. It is also said that you are using your time in custody well, in terms of employment and behaviour. Your Advocate has told us that you want to build a better life on release.

You are assessed as having a very high likelihood of general re-offending. It is said that you pose a risk of future violence which requires an effective multi-agency approach. The sentence we will impose will result in your being registered as a MAPP subject and it is said that you pose a risk of serious physical and psychological harm to the public when under the influence of illicit substances, all of which we have to take into account.

Sentence

Mr Clarke in the case of Ryder it was said that the offences of violence would invariably be met with heavy immediate custodial sentences, unless the most exceptional mitigating circumstances were present. Those circumstances are not present in your case so your sentence will be a long one in prison. This is necessary to mark the seriousness of the offending, to protect the public from you and to deter others. The Report Writer has recommended an extended sentence to enable proper and extended supervision of you after your release which you have not opposed. Such a sentence is absolutely necessary to manage you in the community on release.

In sentencing you we have taken into account the totality principle and we have specifically reduced the sentence in the drugs matter to reflect that. We have taken into account the time served on remand.

Mr Clarke you put Mr Marsh through a shocking ordeal which not only affected him greatly but alarmed his colleagues and the whole community. Workers should be able to get on with their work at any time of night or day without fear of attack. You are rightly ashamed and sorry. You have said that you want to turn your life around, only you can do that.

Taking into account everything that has been said the sentences are as follows:

- **Count 1** – the robbery, immediate imprisonment, 9 years.
- **Count 2** – the burglary, immediate imprisonment of 4 years, concurrent.
- **Count 3** – the drugs, immediate imprisonment, 2 years, consecutive.
- **Total – 11 years** with effective from 29 May 2024.

Having considered the recommendation in the Social Enquiry Report, with which the Court agrees, we consider that the usual period of supervision, if any, after sentence would not be adequate for the purpose of preventing the commission of further offences and securing your rehabilitation into the community. Consequently, the Court is imposing an Extended Sentence Licence in relation to the robbery offence. This has two elements, the custodial term which I have already told you will be 9 years, followed by an extension period, after your release, throughout which you will be subject to an Extended Sentence Licence. The extension period is for the period recommended of 4 years, thereby enabling completion of the work begun while you are in prison as well as monitoring and addressing your progress after release. If upon release you fail to comply with the conditions of the Extended Sentence Licence or are convicted of a further imprisonable offence the Court sentencing you or the Parole Review Committee can revoke the licence, in which case you could be returned to custody for the remainder of the sentence. The Extended Sentence standard conditions are as follows:

1. to be well behaved and not commit any offence and not to do anything which could undermine the purposes of your supervision, which are to protect the public, prevent you from reoffending and help you to resettle successfully into the community;
2. to keep in touch with your supervising officer in accordance with any instructions you may be given;
3. if required, to receive visits from your supervising officer at your home;
4. permanently to reside at an address approved by your supervising officer and notify him or her in advance of any proposed change of address or any proposed stay (even for one night) away from that approved address;
5. to undertake only such work (including voluntary work) approved by your supervising officer and notify him or her in advance of any proposed change; and
6. not to travel outside Guernsey without the prior permission of your supervising officer (which will be given in exceptional circumstances only).

Additional conditions are added, as recommended and explained in the Social Enquiry Report which the Court, considers necessary, not oppressive, proportionate and capable of being understood and sensibly enforced and those conditions are to address the specific risks identified of the harm to your victim, drug abuse and the risk of offending. Those conditions are as follows:

1. not to approach or communicate with or attempt to approach or communicate with directly or indirectly with Mr Jamie Marsh without the prior approval of your supervising officer; and
2. to attend the criminal justice substance service as directed and comply with drug and alcohol testing and treatment as required.

We are going to add the third condition which relates to the curfew but we are amending it slightly because, in our judgement, it is important that condition is proportionate. It is a long time until you will be released and it is important in our judgment that it is reviewed prior to your release to ensure that it is required at that time. The condition is:

3. to confine yourself to an address approved by your supervising officer between the hours of 20:00 and 06:00 daily unless otherwise authorised by your supervising officer. The need for this condition to be reviewed prior to your release and on a monthly basis

and the hours may be amended or reviewed if it is felt that the level of risk that you present has reduced appropriately.

The Crown's application pursuant to section 3 of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2003, which is not opposed, for the forfeiture of the lawfully seized red iPhone valued at £200 which relates to the drug offending in particular is granted, the Court having considered the likely effects on you of forfeiture.

We have also considered whether it is appropriate to make an order for compensation in this case. Ordinarily, we would not do so as the issue of compensation in a case such as this would be better dealt with by the Civil Court and you are going to be in custody for some years but in this case there is the question of £1,000 which was on your person when you were arrested. It is available for compensation and we accede to your suggestion that it should be paid to Mr Marsh as a token towards the losses which he has suffered.

We wish to commend the police for their thorough investigation and we wish Mr Marsh a full recovery and commend him for his bravery.

In summary, the sentence is as follows:

- Total term of imprisonment - 11 years from 29 May 2024
- Compensation Order in favour of Mr Marsh £1,000
- Forfeiture of the phone
- Extended Sentence Licence of 4 years

Catherine Maureen Fooks
Judge of the Royal Court

28th April 2025