

[2025]GCA050

IN THE COURT OF APPEAL OF GUERNSEY

CRIMINAL DIVISION

Case No. 527

Between: RYAN BENJAMIN GALLIE Applicant

-v-

THE LAW OFFICERS OF THE CROWN Respondent

APPLICATION FOR LEAVE TO APPEAL AGAINST SENTENCE

Decision on the Papers

Decision of Sir Richard McMahon, Bailiff

Date of Decision: 10 March 2025

Counsel for the Applicant: Advocate S J Maindonald

1. The Applicant was sentenced by the Royal Court on 3 February 2025 to a total of 6½ years' youth detention. The Applicant had pleaded Guilty to the four Counts concerning him and was afforded full credit for those pleas. He appeared with three co-Defendants, although I will not say anything more about two of them.
2. The first Count related to being concerned in supplying a Class A controlled drug (MDMA), in respect of which the sentence imposed was for 6½ years, and forms the basis of this Application. In addition, the Applicant was concerned in supplying Gabapentin, a Class C controlled drug. A sentence of 7 months' youth detention, to run concurrently was imposed. In each case, he was jointly charged with a co-Defendant, Sophie Head, who was sentenced to 4 years' imprisonment, also with 7 months' concurrent. The Applicant was sentenced to 18 months' youth detention, also to run concurrently, in respect of being concerned in supplying cannabis, a Class B controlled drug. Finally, no separate penalty was imposed in respect of the Count relating to possessing a small amount of cannabis.
3. The basis on which the Applicant now seeks leave to appeal the sentence imposed in relation to being concerned in supplying MDMA (Count 1) is that the sentence of 6½ years' youth detention is manifestly excessive. There are several bases advanced, principally relating to the

Applicant's age, his previous convictions and the impact of the sentence on his relationship with his young child. Reference is also made to the starting point indicated in *Richards* 2000-02 GLR 247 and the early guilty plea. As a second ground of appeal, it is suggested that there was disparity with the sentences imposed on Ms Head, it being suggested that the Appellant was entitled to receive a greater overall discount than her.

4. The sentencing remarks delivered on behalf of the Court by the Judge of the Royal Court explains how these sentences were determined (see [2025] GRC 012). The respective roles in the offending arose through analysis of many messages found on mobile devices.
5. There was no dispute that these were drug trafficking offences to which the guideline in *Richards* applied. For both the Applicant and Ms Head, an initial starting point of 8 years' imprisonment was selected. Whilst reference was made to the further offence relating to the Applicant, this starting point was not further aggravated by there being three Counts of him being concerned in supplying controlled drugs and only two in relation to Ms Head. From that initial starting point, there has been a further increase in respect of him. It was stated that the Applicant was regarded by the Court as "*having the main role*", whereas Ms Head was viewed as having a "*lesser role*". However, she had relevant previous convictions, and had committed these offences whilst subject to a parole licence, although she was not apparently recalled. As a result, the Court considered the additional aggravating factors to mean that the same initial starting point was increased for the Applicant to 11 years and for Ms Head to 10 years.
6. Because of the Applicant's age, particular reference was made to Criminal Justice (Youth Detention) (Bailiwick of Guernsey) Law, 1990. The Court was satisfied that it was appropriate to consider youth detention in the Applicant's case. There is no suggestion that it was wrong to do so.
7. In respect of mitigation, as I have already indicated, the Court gave a full discount of one-third in respect of the guilty pleas that had been entered. As regards the Applicant:

"... there is little to say on your behalf and sensibly you instructed your Advocate to make no excuses. The best point is that you are still young and the Court takes that into account. You have had a disrupted education, you have no work record to speak of and currently have no settled home. Your drug taking began when you were a very young person. You have also abused alcohol but there is some indication that you are recognising the problems alcohol causes. We take full account of the issues with which you continue to struggle. We will discuss the situation relating to your child later in these remarks.

In our assessment, you have demonstrated no remorse. You have admitted that you were dealing in drugs for financial gain so that you and your ex-partner could live comfortably and you were indifferent to the impact of the use of controlled substances on the users. You are assessed as having a very high likelihood of re-offending which we must take into account."

8. The comments about the impact on family were made by reference to what had been set out in *Bourgaize*, a decision from 2014. As regards the Applicant, reference was made to him "*having been forming a bond with the child, so your going into Youth Detention would have an effect which we must consider.*" At the end of that section, the sentencing remarks set out that:

*"The Court has to balance the legitimate aims of sentencing in serious drugs cases against the impact on the Defendant and families. Your cases are not cases which stand on the cusp of custody as they all fall squarely within the *Richards* guidelines. In cases, such as these, where the custody threshold has clearly passed, the balancing*

exercise entitles the Court to consider reducing the length of sentence, or suspending it, or imposing a CSO as a direct alternative if the sentence falls within range to enable those alternatives to be imposed.”

9. With all these comments in mind, the Court concluded that it was “*impossible to arrive at sentences at a level which would enable non-custodial alternatives to be imposed whilst properly applying the Richards guidelines and applying appropriate and justified discounts.*” There is no suggestion in the Application that such an outcome was possible; it is more about the length of the sentence on Count 1.
10. In my judgment, the approach taken by the Court when sentencing the Applicant properly reflected the situation in which he found himself. I take the view that there was justification for increasing the starting point in respect of him from the initial 8 years to 11 years, and not increasing that highest point for Ms Head by as much. Whilst she had recent relevant previous convictions, the Court assessed her as playing a lesser role. It was apparent that the Applicant was in charge and that these offences of supplying others were motivated by financial gain. The Applicant had also been sentenced to 16 weeks’ youth detention in July 2021 in respect of an offence contrary to the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003, which arose in respect of a drugs investigation and he had been sentenced to 7 months’ youth detention for other offences in October 2022.
11. From those increased starting points, it is apparent that the full one-third discount was afforded for the Applicant’s guilty pleas. As a result, before any personal mitigation, he was potentially facing a sentence of 7 years and 4 months’ youth detention. Given that the only personal mitigation mentioned relates to the Applicant’s age, the further discount of just 10 months might be regarded by some as not particularly generous but that has to be looked at in the light of the occasions when the Applicant had been sentenced to youth detention. It appears that this has had little or no impact on him. I take the view that it would amount to little more than tinkering to grant leave on this basis, and I will not do so because, although arguably severe, I am not persuaded that the sentence on Count 1 is manifestly excessive.
12. Turning to the second ground of appeal, disparity between the sentences given to different Defendants is often difficult to assess, but the difference between the two sentences does naturally reflect differing levels of personal mitigation (and also the different enhanced starting points). Unlike with the Applicant, there was clear remorse on the part of Ms Head. Perhaps most importantly, the Court recognised that for Ms Head had engaged following release from youth detention in 2023, but had fallen into poor associations, particularly with the Applicant. The birth of her child was described as “*life-changing*” and there was a lower likelihood of re-offending. Taken collectively, after the full one-third discount for her guilty pleas, resulting in a sentence of 6 years and 8 months, a further discount to reach a sentence of 4 years’ imprisonment appears to reflect the positive things being said on her behalf. She was described as the primary carer of the child.
13. In those circumstances, whereas the sentence imposed on the Applicant might be regarded as severe, but not manifestly excessive, the disparity between the two sets of sentences would not, in my view, amount to “*right-thinking members of the public, with full knowledge of the relevant facts and circumstances*” considering that the differences between those two sets of sentences led to the conclusion that “*something had gone wrong with the administration of justice*” (*Fawcett* (1983) 5 Cr App R (S) 158). Accordingly, I am not persuaded that I should grant leave on this ground either, or in respect of both grounds taken together. In particular, I am not persuaded that there is an arguable case that insufficient account was taken of the mitigation available to the Applicant, which is principally how the application for leave to appeal is being put.

14. I therefore refuse the Applicant leave to appeal his sentence in respect of Count 1 because I am not satisfied that he has an arguable case that it was manifestly excessive or that it was too disparate from the sentences imposed on Ms Head.
15. If the Applicant wishes to do so, he can renew his application for leave before the plenary Court pursuant to section 40 of the Court of Appeal (Guernsey) Law, 1961, as amended. I considered whether I should refer this Application to the plenary Court, rather than to dismiss it but, for the reasons I have given, I am not persuaded that the Applicant has an arguable case on either or both grounds. That is why the Application is dismissed.
16. Having refused the Applicant leave to appeal, it follows that I will similarly refuse to grant him legal aid.

Richard McMahon
Bailiff