

Sentencing remarks regarding 4 matters relating to 1. being knowingly concerned in the importation of a Class B drug and 2. possession of a Class C drug both contrary to section 2(1)(a) of The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended. 3. failure 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 and 4. failure to surrender to custody contrary to section 10 of The Bail (Bailiwick of Guernsey) Law, 2003.

[2025]GRC053

**ROYAL COURT
FULL COURT**

14th May 2025

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Claire Helen Le Pelley, Steven John Morris, Marilyn Jasmine King,
Felicity Jane Quevâtre, Simon Ernest Bodkin, Jillian Clark,
Richard Jeremy Wallen James and Kay Parnwell.**

THE LAW OFFICERS OF THE CROWN

- v -

JAMIE MALCOLM FERBRACHE

Advocate C G Dunford appeared for the Crown

Advocate S E Steel appeared for the Defendant

JUDGE OF THE ROYAL COURT:

Background

Mr Ferbrache you are here today to be sentenced on 2 Indictments containing 4 matters relating to you as follows:

1. being knowingly concerned together with two others, Daniel Gauvain and Luke Blondel, between 10 February 2019 and 17 March 2019, in the fraudulent evasion of the prohibition on importation of goods, namely 9.37 kg of cannabis resin, a Class B drug contrary to section 77(1)(b) and 77(2) of The Customs and Excise General Provisions (Bailiwick of Guernsey) Law, 1972, as amended, in contravention of the prohibition on importation imposed by section 2(1)(a) of The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended. The maximum penalty is 21 years' imprisonment;
2. possession of a drug of Class C on 16 March 2019, namely 7 tablets containing stanozolol, oxymethalone, methandienone and mestanolone contrary to section 2(1)(a) of The Misuse of Drugs (Bailiwick of Guernsey) Law, 1974, as amended. The maximum penalty is 4 years' imprisonment;
3. on or about 29 March 2019, failure 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 this offence was, at the time you were convicted, 2 years’ imprisonment or a fine; and

4. on 19 January 2021, failure to surrender to custody contrary to section 10 of The Bail (Bailiwick of Guernsey) Law, 2003 which carries a maximum sentence of 12 months.

It is necessary to say something about the procedural history in this matter. You and your co-defendants were committed to this Court in July 2019. You and your co-defendant Gauvain pleaded not guilty. Your trial was delayed by an unsuccessful application by you to exclude evidence and the pandemic. You and he were found guilty after trial on 5 November 2020 and sentencing was set for 19 January 2021. You failed to appear. Your co-defendants were sentenced in your absence.

The facts of the importation of 9.37kg of cannabis resin (Count 1) are that you and Mr Gauvain travelled to Manchester together to collect the drugs, though you tried to disassociate from each other on the journey. There was evidence that you had stayed in the same hotel room overnight. Mr Gauvain had a rucksack in his suitcase. On 16 March 2019, you travelled back on a flight from Manchester. You had swapped suitcases so the rucksack, which by then contained the drugs, was in the suitcase checked in by you. Unknown to you, your bags were under surveillance and the presence of the drugs had been detected but the suitcase was not seized and was loaded onto the flight to Guernsey. Mr Blondel, a baggage handler employed at Guernsey Airport, was unloading the flight from Manchester on which you and Mr Gauvain had travelled back. He took the rucksack containing the drugs from the suitcase and it was seized from the vehicle he had used to unload the flight. You collected the suitcase without reacting to the fact that it was nearly 10kgs lighter than when you checked it in. Your fingerprint was found on part of the packaging around the cannabis. At trial you accepted that you had lied at interview about the trip to Manchester with Mr Gauvain. Your defence at trial was that you had been set up. You and Mr Gauvain were found guilty on what was described in the sentencing remarks relating to Mr Gauvain as “*overwhelming evidence*”. Your assertion that you did not believe that the Class C tablets were controlled drugs was also rejected.

The street value of the cannabis resin was between £187,400 and £281,100. As part of the investigation your home was searched and the seven Class C steroid tablets were seized (Count 2). Your mobile phone was also seized and you were given a notice to provide the passcode but failed to do so (Count 3). Your defence at trial was that you had forgotten the passcode but that was rejected at trial. When you failed to appear in January 2021 (Count 4) a warrant was issued. The pandemic hindered the search for you but you were eventually found through detective work and arrested and brought back to Guernsey on 21 February since which date you have been remanded in custody.

You are a local man of 31 years of age, 25 to 27 at the time of offending. At the time of your arrest you were working as a chef and in a stable relationship. You have previous convictions for various offences, including dishonesty, violence and traffic matters and one relevant previous conviction for supplying Class C drugs in 2015, for which this Court sentenced you to 21 months’ imprisonment.

Sentencing Considerations

The sentencing guidelines applicable to offences involving the importation of drugs are contained in the case of Richards, as affirmed in the Court of Appeal case of Barras, Watt and Orchard v The Law Officers of the Crown (2021) and this Court will continue to follow those guidelines.

We consider that your role is one of full participation in the importation. It was a commercial importation for financial gain. The quantity at 9.37kg is at the top end of the 5 to 10kg bracket in Richards of 7 to 10 years and we will take the same starting point as the differently constituted Royal Court took when sentencing your Co-Defendants, namely 9 years and 6 months which was said by that Court to include the aggravating factors of planning and involvement of an airport employee.

In your case there is an additional aggravating factor in that, as distinct from your Co-Defendants you have a relevant previous conviction for supplying Class C for which you received a substantial sentence.

There are no sentencing guidelines for the possession of drugs, the Richards guidelines do not apply. We will take the small possession charge as aggravating the sentence for importation and will impose a concurrent sentence. The standalone starting point would have been 6 weeks.

The revised starting point for the importation taking into account the possession charge and the relevant previous conviction will be **9 years and 9 months**.

RIPL

The Guernsey Court of Appeal in Barras, Watt and Orchard considered the sentencing in respect of RIPL offences and made four observations, which are well known, that failure to disclose is a serious matter which will almost invariably call for an immediate custodial sentence; that the sentencing court is entitled to proceed on the basis that the failure is motivated by the desire to hide something; that deterrence is an important aspect of sentencing and that the appropriate sentence will, of course, depend on the particular circumstances.

As to the circumstances of your offending, we are satisfied that the passcodes were withheld to hide the evidence of the offending, including your association with Mr Gauvain which you were specifically seeking to hide. We take a starting point of **12 months** and there are no aggravating or mitigating factors. We will, in the end, make the same generous reduction to the final sentence, as did the differently constituted Royal Court in respect of your Co-Defendants, and this is part of our way of taking into account totality.

Failure to surrender

Again, there are no specific guidelines in relation to offences of failing to surrender to custody in Guernsey and so we approach the sentencing exercise on general principles in the Guernsey context, drawing guidance from the English Sentencing Guidelines where appropriate. Your decision to leave the jurisdiction resulted in a significant delay to the administration of justice, and has required the convening of a separate Court for your sentencing. We set the starting point before aggravating and mitigating factors at 8 months.

We consider that the carefully planned departure to a different jurisdiction using a false ID and the trouble to which you have put officers in both jurisdictions when they have so much else to do, not to mention the costs of your retrieval are aggravating factors so we increase the starting point to **10 months**.

Mitigation

Plea

The Court must first consider the impact of your pleas on sentence. You are obviously not entitled to any discount for the Not Guilty pleas, although in order to be consistent with the sentencing of your Co-Defendant, Mr Gauvain, we take into account in general mitigation that your agreement to the extensive admissions significantly reduced the length of the trial. We afford you full credit for your guilty plea to the failure to surrender.

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 succinct and powerful submissions of your Advocate. We have read the letters from you, your partner and others and taken their content fully into account.

We note your adverse childhood experiences and the higher likelihood of substance abuse and criminal activity which, for you, is borne out by your record and history of drug abuse. Your last convictions are the ones with which this Court is dealing with now so some 4½ years old and the offending was some 6 years ago. Despite your disadvantages, you are a hard worker and we note the successful career that you have made in catering evidence by the glowing reference from your employer.

We can do no better than paraphrase what your Advocate ably said in relation to the person that you are now. Unusually in this case we do have evidence that you have turned your life around, a turnaround which was described by a professional as a “*transformation*” compared with your previous presentation. As Advocate Steel said, you have been drug free for 4 years, you have abided by the law, you have excelled at your job, you have settled with a partner, although that relationship is now in jeopardy, you have made pro-social friends, you have extricated yourself from bad influences, you have worked on your personal development. All that, of course, does not cut across the clear fact that you should have returned to Guernsey to face the music and you should not have left in the first place.

It is to your credit that you now accept your guilt and the responsibility for your offending. You have been candid about how you managed to leave Guernsey. You have also been able to acknowledge the impact of drug offending on the community and others and you have been able to acknowledge the level of resource involved in securing your return. All of this is to your credit. It is also to your credit that you are taking the opportunities afforded to you in prison for education and self-development.

You are assessed as having a medium risk of re-offending which we take into account. We note that there is a request for a drug-trafficking investigation in respect of you.

Sentence

This was a sophisticated and planned importation of a significant quantity of cannabis resin with the capacity to harm many people on this island. Your offending was made worse by the RIPL and now by the failing to surrender. In your case the sentencing guidelines for the importation and RIPL are clear. The only appropriate sentences are of immediate custody reflecting the seriousness and the proper aims of sentencing including deterrence. The failure to surrender offence is a serious one, impacting on the proper administration of justice and it must also be met by an immediate custodial sentence. In sentencing you we have taken into account the totality principle. We have also taken into account the time served on remand.

One of the proper aims of sentencing is rehabilitation and, in your case, unusually, it is clear that you have been rehabilitated which entitles this Court to reduce the immediate custodial sentence so that it is proportionate to your circumstances now. That is not to say, as has been said before, that you should not have faced the music at the time. You are now here and the time has come to face that music. You say that you hope to put your old self behind you once and for all and become the man you want and know that you can be. We hope that you achieve that goal and that this will be the last time that we see you before this Court. Taking into account all of the above and applying the appropriate discounts for plea and personal mitigation and particularly taking into account totality, the sentences will be as follows:

Count 1 - the Importation matter – 6 years and 6 months from 21 February, 2025.

Count 2 – Class C possession – 1 month concurrent with Count 1.

Count 3 – the RIPL – 6 months consecutive to Count 1.

Count 4 – Failing to surrender – 5 months consecutive to Count 1

In total, the sentence will be **7 years and 5 months** from 21 February 2025.

In accordance with Section 1 of The Criminal Justice Supervision of Offenders (Bailiwick of Guernsey), 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 forfeiture of the lawfully seized iPhone valued at £50 to £80 which relates to the offences is also granted, the Court having considered the likely effects on you of forfeiture.

In summary, the total sentence is:

- **7 years and 5 months' imprisonment from 21 February 2025; and**
- **Forfeiture of the iPhone.**

Catherine Maureen Fooks
Judge of the Royal Court

14th May 2025