

Leave to Appeal against Sentence – regarding numerous offences of importing various Class A and B drugs and an Extension of Time to serve a Notice of Appeal.

[2025]GCA080

IN THE COURT OF APPEAL OF GUERNSEY

CRIMINAL DIVISION

Case No. 535

Between:

FILIPE SMITH

Applicant

-v-

LAW OFFICERS OF THE CROWN

Respondent

APPLICATION FOR LEAVE TO APPEAL AND

EXTENSION OF TIME

Decision on the Papers

Decision of Sir Richard McMahon, Bailiff

Date of Decision: 2 October 2025

Applicant's representative: Advocate S E Steel

1. On 7 February 2025, the Applicant was sentenced to a total of 6½ years' imprisonment on an Indictment containing two Counts, to both of which he had pleaded guilty. Both Counts related to being knowingly concerned in the fraudulent evasion of the prohibition of the importation of goods contrary to provisions of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, as amended. Count 1 related to a Class A controlled drug, Δ8 - THC (Delta – 8 tetrahydrocannabinol) and Count 2 related to cannabis, a Class B controlled drug. The sentence for Count 1 was 6½ years' imprisonment and for Count 2 was 2 years' imprisonment to run concurrently.
2. There was a co-accused, Cory Le Sauvage, who contested both of these Counts but was found guilty. He appealed his sentence to the Court of Appeal and was successful ([2025] GCA 066). The sentence for Count 1, which was the subject of the appeal, was reduced from the 9½ years' imprisonment that the Royal Court had imposed to 7 years' imprisonment. As set out in para. 21 of the judgment delivered by Dunlop JA: "*Once one understands that the very nature of edibles means that they cannot sensibly be compared to drugs in powder form so far as weight is concerned (there is a vast difference, in terms of harm and street value, between 768 grams of pure cocaine and 768 grams of candy bars containing 1.15 grams of THC), the approach adopted in the Royal Court has led to an outcome which is manifestly excessive.*"

3. The third ground in the Notice of Appeal settled by Advocate Steel dated 26 September 2025 refers to this recent decision. The two previous grounds suggest that the starting point for Count 1 selected by the Royal Court, being 9 years' imprisonment, as explained in the sentencing remarks, and which had been further aggravated to 12 years' imprisonment, has led to a manifestly excessive sentence. As shown by the successful appeal of the co-accused, Mr Le Sauvage, it is suggested by Advocate Steel that the combined starting point for the two Counts should have been 7 years' imprisonment. Insufficient weight had been placed on the fact that the candy bars contained a small amount of THC, even if the overall weight of them was high.
4. The Court of Appeal's decision was delivered on 17 September 2025. I am satisfied, therefore, that the Applicant has instructed Advocate Steel to progress his application for leave to appeal, and consequently also seeking an extension of time in which to serve a Notice of Appeal, within a short period of time. This is particularly so where the Notice of Appeal indicates that the Applicant has been transferred to an English prison.
5. In all these circumstances, given the successful appeal against sentence of the co-accused, Mr Le Sauvage, I am prepared to grant both elements of the application. It is apparent that there is an arguable case that the sentence imposed on the Applicant was manifestly excessive. In the circumstances where the outcome of Mr Le Sauvage's appeal was awaited, I will also grant the extension of time sought, enabling the Notice of Appeal to be served within the next 7 days because I accept the argument that it is in the interests of justice for the Applicant's sentence to be re-considered.
6. Further, having granted leave to appeal and an extension of time, the Applicant will also be granted legal aid in respect of his appeal against sentence.