

Being knowingly concerned in the fraudulent evasion of the prohibition on importation of goods namely cannabis, contrary to section 77(1)(b) and 77(2) of the Customs and Excise General Provisions (Bailiwick of Guernsey) Law 1972, as amended.

[2021]GRC066

**ROYAL COURT
FULL COURT**

27 October 2021

**Before: Catherine Maureen Fooks, Judge of the Royal Court and Jurats:
Claire Helen Le Pelley, David Percy Langley Hodgetts LVO,
Steven John Morris, Joanne Marie Wyatt, David John Robilliard,
Marilyn Jasmine King, Heather Reed, Simon Ernest Bodkin.**

THE LAW OFFICERS OF THE CROWN

- v -

THOMAS LIAM WILLIAMS

**Advocate J D McVeigh appeared for the Crown
Advocate S E Steel appeared for the Defendant**

JUDGE OF THE ROYAL COURT:

Background

Mr Williams you have pleaded guilty to five Counts on one Indictment.

All five Counts are of being knowingly concerned in the fraudulent evasion of the prohibition on importation of goods, contrary to section 77(1)(b) and 77(2) of the Customs and Excise General Provisions (Bailiwick of Guernsey) Law 1972, as amended.

Count 1 concerns the importation of a Class B controlled drug, namely 13.88 grams of cannabis. Count 2 concerns the importation of a Class C drug, namely 51 tablets of etizolam. Those two offences were committed on the 29 March 2021.

Counts 3 to 5 concern the importation of cannabis, namely 6.73 grams, 2.11 grams and 28.89 grams respectively. These offences were committed on the 30 March 2021.

The maximum sentence for the importation of Class B drugs is 21 years' imprisonment and for the Class C drugs, 14 years' imprisonment.

The facts in relation to all five Counts are the same, namely that, in each case, a postal package was intercepted, addressed to a fictitious person 'Seamus Murphy' at the Block where you live.

On Monday 5 of April, by your own admission, you approached a postal worker at the address and asked if there was any post for Flat 6. On 7 April, a postal worker left a blue postal slip bearing the name 'Murphy' in the communal area, which is where the post for your address is normally delivered. Customs Officers observed you entering and checking the communal area and leaving it with something in your hands. When you were arrested on 8 April, the search of your rucksack revealed the blue postal

slip and a set of digital scales. A financial report on your bank account revealed two transactions in cryptocurrency believed to relate to the purchase of the cannabis. At interview you exercised your right to silence.

Analysis of your iPhone revealed some messages indicative of general drug use, some discussion of postal delays on the public holiday Easter weekend, just days after the packages were intercepted and a message to a contact saying, *"I'll let you know if it's arrived"*.

The value of the cannabis is between £2,580.50 and £3,612.70 and the value of the 51 etizolam tablets is £204.00.

You are a single local man of 28 years of age, 27 at the date of the offences. You are not currently working, but you were at the time of the offences, a support worker within HSC.

You have no previous convictions.

You have been on conditional bail throughout the proceedings.

Sentencing Considerations

The total amount of cannabis imported by you was 51.61 grams with Counts 1 and 5 being the largest amounts, namely 13.88 grams and 28.89 grams respectively. We will take those Counts as the lead offence and treat the two other Class B Counts and the Class C Count as aggravating them.

The sentencing guidelines applicable to offences involving the importation of drugs are contained in the case of Richards. Those guidelines were recently considered by the Guernsey Court of Appeal in Barras, Watt and Orchard v Law Officers 2021 GCA045 and re-affirmed as current and appropriate. This Court will continue to follow those guidelines. Those guidelines include guidance for claims that drugs are for personal use and that requires special consideration. The Court notes the quantities in this case.

The cannabis imported by you falls within the lowest band in Richard's namely 3 to 6 years for amounts up to 2 kg. We set the starting point for the two 2 lead cannabis importations at 3 years, before considering aggravating and mitigating circumstances.

There is no specific guidance in Richard's in relation to Class C offences. We would set the starting point at 12 months..

The Court is satisfied that the custody threshold in respect of your offending has been passed. Postal importation is always viewed as an aggravating factor. The fact that there were five separate importations and different Classes of drugs, are also aggravating factors.

Whilst you used a false name and a communal address, which implicates other residents, this was not the most sophisticated of postal importations. The combined starting-point therefore, before mitigation is set at 4 years and that takes account of the totality principle.

Mitigation

Plea

The Court must first consider the impact of your guilty pleas on sentence. We afford you full credit for your guilty pleas to all offences.

Mitigation

The Court has considered carefully the very thorough Probation Report prepared in respect of you. We have also listened to the sensible submissions of your Advocate. We have read the outstanding references provided, which have carried considerable weight with the Court.

Your best mitigation is the fact that you are a person of previous good character. Your references attest to that being a person not just without previous convictions, but a caring person, much respected by those who know you. Your offending has been caused by your physical and mental health difficulties which go back to your early life and which you have been treating with illegally obtained medication.

Your response to offending has been good. You have been able to analyse why you committed the offences, recognise that you have broken the law and you have shown genuine remorse and shame. You have voluntarily sought professional help.

You are assessed as not requiring any intervention in terms of supervision, as you are already engaging with the right services and working hard with them, which is to your credit.

The impact on you of your offending has been significant, causing you to lose your relationship, your employment and your accommodation. You rightly acknowledge that those consequences are self-inflicted, but we note the combined significant impact, nonetheless.

Now that you are under medical care, your risk of reoffending has reduced. That risk is assessed as low in any event. You are not assessed as posing a risk to the public.

We note there is no request for a Drug Trafficking investigation. In your case the custody threshold has clearly been passed, but the combination of your plea, previous good character and mitigation, means that the Court can consider non-custodial alternatives.

We have decided to impose both Suspended Sentences and a Community Service Order. It is to be noted that concerns have been expressed as to your suitability for a Community Service Order, but you were able to excel at your work and you are assessed now as being fit for that Order. It is hoped that with the stress of the Court gone, and appropriate medication to treat your conditions, a Community Service Order will be achievable and thus give reparation to the community and use your undoubted skills.

Sentence

Mr Williams, you have faced and continue to face, a number of difficulties in your life. You have made some bad choices in how to cope with those difficulties and those choices have brought you here today. Since your arrest you have thought carefully about your choices and made some positive changes. Your offending has caused you to lose so much and that loss will be life-long. But you sought professional help and you need to persevere with that help and make a fresh start.

Taking into account all the above and applying the appropriate discounts, the sentences will be as follows:

All the sentences are concurrent, including the period of default in relation to the Community Service Order should you breach it by reoffending.

- Count 1 - 2 years' imprisonment, suspended for 3 years.
- Count 2 - which is the Class C offence – 120 hours Community Service or 6 months' imprisonment in default.
- Counts 3, 4 & 5 2 years' suspended for 3 years.

I repeat that all those sentences are concurrent.

The Community Service Order has been made because of the seriousness of the offence of which you have been convicted. We note that you have signed the forms stating that you understand the nature and effect of a Community Service Order, the power of the Court to review the Order and the consequences that may follow if you fail to comply with any of the requirements of the Order, or if you are convicted of a further offence while the Order is in force.

The Court is satisfied that provision can be made for you to perform work and that you are a suitable person to perform that work. Please note, that if you fail to complete even one hour without a medical certificate, or commit any other offence, you will be brought back before this Court and you will face going to prison.

Suspended

In respect of Counts 1, 3, 4 and 5 the sentence imposed is one of 2 years' imprisonment suspended for a period of 3 years.

You will not have to serve this Suspended Sentence of imprisonment, unless during the next 3 years you are convicted of an offence punishable with imprisonment. If you are convicted of such an offence, you will be liable to serve all or part of those sentences. A suspended sentence is not a let off. It will hang over your head for that period of time and those will be the consequences, so please do not forget that.

Again, those Orders are being made because of the seriousness of the offences and taking into account the totality principle.

Forfeiture under the Misuse of Drugs (Bailiwick of Guernsey) Law 1974 as amended

The Crown's application pursuant to section 26 of the Misuse of Drugs (Bailiwick of Guernsey) Law 1974, as amended, for forfeiture and destruction in respect of the drugs and their packaging is also granted. The Court notes that this has not been resisted. The Court is satisfied that these items were lawfully seized and relate to the offences.

In summary therefore Mr Williams, the total sentence this morning is:

- 1 Total term of imprisonment - 2 years, suspended for 3 years from today.
- 2 Total of 120 hours Community Service or 6 months' imprisonment in default. All of which are concurrent, including the period of default in respect of the Community Service Order should you breach it by reoffending.
- 3 The forfeiture of the drugs and packaging.

You may now leave the Court.

Catherine Maureen Fooks
Judge of the Royal Court

27 October 2021