

JERSEY / JUDGMENT

The Attorney General v Philip Roy Delduca

COURT

Royal Court

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Superior Number Sentencing - drugs - importation - Class A**[2023]JRC185****Royal Court****(Samedi)****16 October 2023**

Before :

Sir Timothy Le Cocq,
Bailiff, and Jurats Averty, Hughes, Le Cornu,
Cornish and Entwistle.
The Attorney General
-v-
Philip Roy Delduca
Sentencing by the
Superior Number of the Royal Court, following a guilty plea to the following

charge:

1 count of:
Being knowingly concerned in the fraudulent
evasion of the prohibition on the importation of goods, contrary to Article
61(2)(b) of the Customs and Excise (Jersey) Law 1999 (Count 1).
Age: 54
Plea: Guilty

Details of Offence:

The Defendant travelled by car to
Jersey on the ferry from England with his elderly father. A search of the vehicle
revealed a
silver foil vacuum packed package under the carpet of the front passenger
footwell. The package contained five yellow-coloured Kinder eggs wrapped in
clingfilm and blue latex glove. One
of the eggs and the blue glove were found to contain white powder. The power was
subsequently analysed and
confirmed to consist of 112 grams of cocaine of 80% purity. The total street value of
the drugs
seized was between £16,800 and £28,000.
Following arrest, the Defendant was
interviewed, and he admitted importing the cocaine located in his
father's car. He stated that
he carried out the importation to clear a drug debt that he owed. He travelled with
his father as he did

	not have a driving licence, but his father did.
Details of Mitigation:	Guilty plea at the earliest opportunity. Exceptional co-operation with the investigation. Co-operation referred to in open court for which greater credit was given.
Previous Convictions:	Three previous convictions for drug offences which dated back to 1988.
Conclusions:	
Count 1:	Starting point 11 years' imprisonment. 6 years' imprisonment. Total: 6 years' imprisonment. Declaration of benefit sought in the sum of £400. Confiscation order sought in the sum of £1. Forfeiture and destruction of the drugs sought. No costs sought.
Sentence and Observations of Court:	
Count 1:	11 years' starting point. 3 years and 10 months' imprisonment. Total: 3 years and 10 months' imprisonment. Declaration of benefit made in the sum of £400. Confiscation order made in the sum of £1. Forfeiture and destruction of the drugs ordered. Ms C. L. G. Carvalho, Crown Advocate. Advocate A. E. Binnie for the Defendant.

JUDGMENT

THE BAILIFF: 1. You are to be sentenced today with regard to one count of being knowingly concerned in the fraudulent evasion on the prohibition on the importation of unlawful drugs, namely 112 grams of cocaine. 2. The Crown Advocate has referred to the facts and we do not need to go into them in detail. In brief you were stopped on 11 June 2023 at Elizabeth Terminal where you arrived in Jersey as a passenger in a Fiat Panda being driven by your father. You both informed customs officers that you were travelling to Jersey for a fishing holiday and were intending to leave on 14 June 2023. 3. You claim that your father had paid for the trip whereas he stated that he had never been abroad before and that you had treated him to the trip. Testing by officers of the Customs and Immigration Department revealed that your mobile phone and parts of the vehicle gave a positive indication to the presence of cocaine. You confirmed that you had

used cocaine a few days before. The vehicle was then searched and when the front passenger footwell carpet was pulled back a foil vacuum package was found which contained five yellow-coloured kinder eggs wrapped in clingfilm and a blue latex glove. White powder was discovered inside. You were arrested and told customs officers that your father knew nothing about it. 4. The cocaine which was, as I have said, 112 grams in weight had a purity of 80% and therefore had a wholesale value of between £9,600 and £12,000 and a street value of between £16,800 and £28,000. 5. You admitted in interview that you had imported the package indicating you owed £60,000 to drug suppliers who were threatening you. The drugs debt had dated back to 2019 and you told officers it would be cleared if you carried out three drugs' importations into Jersey. This was the first. 6. During a second interview you referred to threats that you had received and as you said the man who had given you the drugs to import had threatened to burn your home down. You will have been advised we are sure, that threats are seldom if ever taken as mitigation by this Court. The reasons for this are at least two-fold: (i) The truth or otherwise of the fact that threats are made is impossible to confirm in most cases. (ii) Threats are an occupational hazard of being involved in drugs and in the drugs trade. 7. We follow the guideline case of *Rimmer v Attorney General* [2001] JLR 373 and applying the principles set out in that case. The guidelines indicate a starting point of between 10 - 13 years' imprisonment for a quantity of between 100 – 250 grams. The quantity that you imported was at the lower end of that band. 8. The position of the Defendant within these bands is to be determined by reference to the weight of the drugs and the role of the Defendant. The value of drugs is also considered but is a factor of less significance. 9. In *Rimmer* the Court of Appeal considered the matter of purity and identified that a purity of 75% or greater was to be considered high. In those circumstances it might then be appropriate to increase the starting point to reflect the fact that the consignment is likely to be adulterated or would in any event do significantly greater harm.

10. The Crown categorises your involvement as that of a drugs courier, and we agree. We accept that you were to bring the drugs into Jersey and will then hand them to a local contact for onward distribution.
11. You are not of good character, however your previous drugs convictions date back to 1988. You are assessed at being a high risk of reoffending within the next twelve months. We note that you expressed your remorse to probation officers, and indeed we have read carefully your letter of remorse and the other letters tendered in your support.
12. By way of mitigation, you have the benefit of an early guilty plea which you entered at the first opportunity. It might be said that the plea was inevitable in all the circumstances, but we have accepted to an extent what your counsel has argued on your behalf and we are going to give you full credit for the guilty plea.
13. By way of other mitigation, as we have said, we have read the letters tendered in your support and carefully your letter of remorse which we accept in all of the circumstances as entirely genuine. We also, of course, take very much into account the exceptional co-operation that you have given to the investigation. Not only have you named as far as you are able and sought to identify those who have been involved in organising the importation, but

you have taken the exceptional step of allowing that co-operation to be referred to in open court with all of the consequences that possibly can flow from that. Accordingly, we will afford you the appropriate amount of credit for that exceptional mitigation.

14. You will be aware however and will have been advised that the trafficking of Class A drugs is viewed as extremely serious within this jurisdiction and is damaging to the local community. Couriers may not play the lead role in an importation, but they play a vital role and fall to be sentenced accordingly.
15. We deal first with the matter of confiscation which you do not make any observations on and we make a declaration of benefit in the sum of £400 and a confiscation order in the sum of £1.
16. We agreed with the Crown's assessment of the starting point of 11 years, but we feel, taking all of the mitigation into account, which we view as exceptional co-operation particularly the fact of your co-operation being referred to in open court by your counsel on your instructions, that we can make a greater reduction than allowed for by the Attorney General who was unaware of this later point.
17. You are sentenced therefore with regard to the importation of cocaine to a period of 3 years 10 months' imprisonment.
18. We make an order for the forfeiture and destruction of the drugs seized. Authorities Customs and Excise (Jersey) Law 1999. Misuse of Drugs (Jersey) Law 1978 Proceeds of Crime (Jersey) Law 1999 Rimmer v AG [2001] JLR 373. AG v Miah 2002/210 AG v Miah and Ors [2007] JRC 113 AG v Silbourne [2022] JRC 222

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Prepared on 22 October 2026 · Esheria