

1 IN THE GRAND COURT OF THE CAYMAN ISLANDS
2 CRIMINAL SIDE
3

4 INDICTMENT No: 100/2017 (LOBO);
5 INDICTMENT No: 12 + 19/2018 (LRPR & ALTD)
6 CHARGE Nos: 02960/2017 (Ferrini & Molina)
7 CHARGE No: 02966/2017 (ALTD)
8
9

10 THE QUEEN

11 v.

12 LESME ROMAULDO PEREZ-RUIZ
13 ALLAN LAWREMS TAYLOR-DOMINGUEZ
14 DAVID KARL LOBO
15 JOSE LEONARDO PARRA FERRINI
16 YOANDRY JOSE MORALES MOLINA
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18



19 **Appearances:**

20 Mr. Patrick Moran, Deputy DPP, for the
21 Crown

22 Ms. Amelia Fosuhene of Brady Attorneys for
23 Defendant LOBO

24 Mr. Alex Davies of McGrath Tonner for
25 Defendant LRPR

26 Mr. Oliver Grimwood of RH Barton Attorneys
27 for Defendant ALTD

28 Mr. Jonathon Hughes of Samson Law for
29 Defendants JLPF & YJMM
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33 **Before:**

Dame Linda Dobbs

34 **Sentence Hearings:**

27th February 2019 & 27th March 2019

35 **Delivery of Decision:**

29th March 2019
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HEADNOTE

Criminal Law – Conspiracy to Import a controlled drug contrary to s.321 of the Penal Code (2013 Revision) - Being Knowingly Concerned in the Importation of a Controlled Drug contrary to s.3(1)(a) of the Misuse of Drugs Law (2014 Revision) – Sentence after trial and guilty pleas – Roles played by the defendants – Discounts for assistance to the authorities.

SENTENCE JUDGMENT





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INDICTMENT and CHARGES

1. **David Karl Lobo** (“Lobo”) was convicted after trial by jury of one count of importing cocaine – that is, Count 2 on the joined Indictment #100/2017, #12/2018 + #19/2018 which reads, “being knowingly concerned in the importation of a controlled drug, contrary to s.3(1)(a) of the Misuse of Drugs Law (2014 Revision)”.

2. **Lesme Romauldo Perez-Ruiz** (“LRPR”) pleaded guilty to:
 - a. one count of conspiring to import cocaine – that is, Count 1 on the joined Indictment #100/2017, #12/2018 + #19/2018 which reads, “conspiracy to import a controlled drug contrary to s.321 of the Penal Code, (2013 Revision)”; and
 - b. one count of importing cocaine – that is, Count 2 on the joined Indictment #100/2017, #12/2018 + #19/2018, which reads, “being knowingly concerned in the importation of a controlled drug, contrary to s.3(1)(a) of the Misuse of Drugs Law (2014 Revision)”.

3. **Alan Lawrems Taylor Dominguez**, (“ALTD”) pleaded guilty to:
 - a. Count 1 on the joined Indictment #100/2017, #12/2018 + #19/2018 which reads, “conspiracy to import a controlled drug contrary to s.321 of the Penal Code, (2013 Revision)”; and
 - b. Importing cocaine. However, this defendant pleaded to this charge when the case was still in the Summary Court. Therefore, the defendant’s name was never placed on Count 2 of the Grand Court indictment and, consequently the defendant falls to be sentenced today for this offence on the Summary Court **Charge Number #02966/2017.**

1 4. **Jose Parra Ferrini** (“Ferrini”) and **Yoandry Morales Molina** (“Molina”) both
2 pleaded guilty to one count of importing cocaine. It is to be noted that both these
3 defendants pleaded guilty to this charge in the Summary Court and, consequently the
4 defendants fall to be sentenced today for this offence on the Summary Court **Charge**
5 **Number #02960/2017.**



RULING ON JURISDICTION

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9 5. In relation to Ferrini and Molina: In a ruling made on the 27th February 2019,
10 following submissions by counsel, this court found that it had the power to sentence
11 these defendants by exercising the powers of a Magistrate in the Summary Court of the
12 Cayman Islands pursuant to s.11 of the *Grand Court Law 2015 Revision*. In the Ruling
13 on the 27th February 2019 this Court stated:

14 *“Mr. Ferrini and Mr. Molina pleaded guilty in the Summary Court to one count of*
15 *importation of cocaine. Mr. Taylor Dominguez pleaded guilty to two offences, one*
16 *in the Summary Court and one in the Grand court. Mr. Perez Ruiz pleaded guilty*
17 *in the Grand Court to an offence of importing cocaine and an offence of*
18 *conspiracy to import cocaine. Mr. Lobo was convicted by a jury of one count of*
19 *importation of cocaine. The importation charge is the same for all five defendants.*

20
21 *As things stand Mr. Ferrini and Mr. Molina stand to be sentenced by a Magistrate*
22 *(in the Summary Court) whereas the other three defendants fall to be sentenced in*
23 *the Grand Court. All parties agree that this is an undesirable state of affairs. When*
24 *this anomaly was drawn to my attention, I asked counsel to do some research to*
25 *see whether it was possible under the law of the Cayman Islands for me to*
26 *sentence all five defendants. In the UK when sitting in the higher courts I had been*
27 *involved in cases where the court turned itself into a lower court for practical*
28 *reasons.*

29
30 *Submissions have been made to me that there is a mechanism available to the*
31 *court to ensure that all defendants are dealt with together – which not only*
32 *reduces delay and saves public funds but also ensures that there is consistency of*
33 *sentence, particularly with regard to the importation offence.*

1 The relevant provisions in the UK can be found in s.19 of the **Courts Act 1981**
2 which sets out the general jurisdiction exercisable by the High Court, and s.66 of
3 the **Courts Act 2003** which gives a judge of the high court the powers of a justice
4 of the peace who is a district judge (magistrates' court/Cayman Summary
5 Court) in relation to criminal causes and matters.
6

7 Section 11 of the **Grand Court Law (2015)** Revision states that the Grand court
8 shall be a superior court of record and in addition to any jurisdiction exercised by
9 the court or conferred by that and any other law in force in the Cayman Islands it
10 has the like jurisdiction which is vested in or capable of being exercised in
11 England by the High Court as constituted by the **Senior Courts Act 1981** and any
12 other Act of Parliament of the United Kingdom amending or replacing that Act.
13

14 For sake of clarity, a district judge of a magistrates' court is a legally qualified
15 professional judge to be distinguished from a lay magistrate.
16

17 It would appear therefore that this court has the power to exercise the power of a
18 Cayman Islands Magistrate and, in my judgment, and in the submission of all the
19 parties, it would be in the interests of justice to do so. I therefore will exercise the
20 power of a Cayman Islands Magistrate so that all defendants can be sentenced
21 together.”
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1 **SUMMARY OF THE FACTS**

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3 6. Mr. Moran opened the case in front of the defendants in some detail from his
4 prosecution sentencing note which is available electronically, therefore the facts can be
5 summarised very briefly.

6
7 7. The **conspiracy count** was the first in time. This involved ALTD and LRPR who
8 began to discuss smuggling drugs into the Cayman Islands in February 2017. ALTD
9 had identified a buyer for a kilo of cocaine and LRPR had a link to a supplier of both
10 drugs and couriers in the figure of Frank Noriega who was based in Colombia.

11
12 8. In essence, Mr. Noriega was the person running the South American side of the
13 operation. The cocaine was to be converted into liquid form, smuggled into the country
14 by couriers swallowing condoms and then once the condoms were expelled, the
15 cocaine would be cooked and converted back into powder. On 12th May 2017 LRPR
16 arrived in Grand Cayman as did two couriers. They were met by ALTD who made
17 various arrangements. ALTD stated that he received \$2k and LRPR said \$5k, although
18 he had to fund expenses from that figure.

19
20 9. Not long after that, importation plans were afoot for a **second importation**. This time
21 the drugs were seized. The amount was just over 1.8 kilos of cocaine. The modus
22 operandi was very similar, although the couriers on this occasion were different. They
23 were the two defendants Molina and Ferrini.



1 10. Prior to the importation there were communications between LRPR, ALTD and Lobo
2 – with Lobo also discussing the arrangements for the smuggling trip with Frank
3 Noriega. ALTD went to the Bahamas but he left his car at the airport for the use of the
4 smugglers on their arrival.

5
6 11. The three men, LRPR, Molina and Ferrini arrived in the Cayman Islands on 31st May
7 2017 and stayed at an apartment on Seven Mile Beach, which had been booked by
8 Lobo who met them on their day of arrival. Lobo visited them regularly, purchasing
9 necessary supplies including scales and laxatives to assist in the expelling of the
10 cocaine filled condoms.

11
12 12. On 2nd June, the three defendants LRPR, Ferrini and Molina were arrested at the
13 apartment and the cocaine seized. Lobo who had been outside the apartment not long
14 before the arrest of the three men was arrested shortly after in his car in the South
15 Sound area. He had approximately US\$13k in cash. Receipts for wire transfers made by
16 him to Colombia were also found.

17
18 13. ALTD was still in the Bahamas at the time of the arrests. His wife had also been
19 arrested and, on discovering that, ALTD gave himself up to the authorities and
20 returned to the Cayman Islands. All defendants save for Lobo admitted being involved
21 in the offences during their police interviews.



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THE COURT'S SENTENCING POWERS AND GUIDELINES

- 14. The maximum sentence for a first offence of importation of drugs for quantities in excess of 2 ounces is 20 years' imprisonment, in the summary court, and 35 years' imprisonment, in the Grand Court. The Summary Court may commit a case to the Grand Court should it consider its powers of sentence to be insufficient.
- 15. Strangely, the maximum sentence for conspiracy to import drugs is 10 years' imprisonment.

STATEMENT ON TARRIFFS & GUIDELINES FOR SENTENCING FOR CERTAIN OFFENCES 2002 ("The Chief Justice's Sentencing Guidelines")

- 16. This court must have regard to the *Statement on Tariffs and Guidelines for Sentencing for Certain Offences*, issued by the Chief Justice of the Cayman Islands in January 2002 ("*The Chief Justice's Sentencing Guidelines 2002*") In those Guidelines, issued following a consultation process, tariffs were reaffirmed for sentencing for certain offences. A tariff was defined as "the sentence to be applied in a typical case", with no aggravating or mitigating features.
- 17. The guidelines note that, in relation to drug offences, there was a "*widespread problem with cocaine abuse in these Islands*", and:
 - i. the relevant tariff for sentencing (in both the Summary Court and the Grand Court) for offences involving several ounces or kilo quantities of cocaine was set at 15 years' or more (after trial) for a first time offender;



1 21. She submits that the starting point of 15 years' imprisonment can be decreased in the
2 case of couriers and those less involved and accepts that it can be increased in the case
3 of those playing a leading role, but says that the court has to look at the facts of the
4 case closely as there can be different categories even within the description of a
5 leading role.

6
7 22. In *Millwood*³, the Cayman Islands Court of Appeal considered the 2002 Cayman
8 Islands Guidelines and the 2012 UK Guidelines, and held that the appropriate
9 minimum starting point in the Cayman Islands for an offender who had played a lesser
10 role (as defined in the U.K. Guidelines) in the importation of 2.86kg of cocaine was 15
11 years' imprisonment⁴. The defence submit that this has to be considered in the context
12 of the amount of cocaine involved.

13
14 23. Counsel on behalf of Ferrini and Molina relies on the case of *R. v. Boakye and others*⁵,
15 when considering the new 2012 drugs guidelines, identified a new sub class of courier
16 namely:

17 *“the group of disadvantaged defendants, particularly those from an under-*
18 *developed country, who have been exploited by serious drug criminals and*
19 *persuaded to carry drugs often for a very small reward” - (see paragraph 9 of*
20 *judgment). Such an offender was contrasted with “the courier who is worldly-*
21 *wise, who knows what he (or she) is doing, and does it as a matter of free choice*
22 *for the money, is likely to be assessed as having a significant role”⁶*

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26 24. Mr. Moran on behalf of the Prosecution submits that there is no such provision in the
27 Cayman Islands and that, had there been an intention to distinguish, it would have been
28 explicit.

29

³ supra

⁴ see paragraph 11 of the judgment

⁵ 2013 1 CR App R (S) 2

⁶ See paragraph 36 of judgment



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ASSISTANCE TO POLICE

25. I need to deal with one aspect of sentencing, namely assistance to the police in light of LRPR and ALTD giving evidence at the trial of Lobo. Again there is not agreement between counsel as to the approach to be taken when the court has to make reduction – both for plea of guilty and assistance to the authorities.

26. Mr. Moran submits that the court should approach the case on the basis conducted by Mr. Justice Quin in the case of *Ebanks and Others*⁷ when he sentenced on 23rd July 2014 applying what Mr. Moran called the *Sehitoglu (Dervis)*⁸ approach, namely that the half to two-thirds discount referred to would include a plea of guilty. He distinguishes the case of *Blackburn*⁹ on the basis that what was said in *Blackburn* followed a change in legislation in the UK where the discount for pleas of guilty were formalised in legislation. There has been no such change in the Cayman Islands. Moreover, he points out that *Blackburn* does not lay down the order in which the discounts should be calculated and whether they should be separately calculated.

27. Mr. Grimwood on behalf of ALTD submits that the *Sehitoglu* approach adopted in *Ebanks & Others* is no longer appropriate because of the *Cayman Islands Sentencing Guidelines (October 2015)*. The guidelines refer to *Blackburn* and set out an order – namely to work out the figure for assistance, then credit for the plea of guilty, to stand back and consider totality – then sentence.

28. In *Ebanks*, Justice Quin examined various authorities on the issue of assistance to the police and, as already noted, adopted the approach in *Sehitoglu*.

⁷ Ind. 98+ 98A/2012 + Ind. 85/13 *R v. Carter, Ebanks, Liberal*

⁸ (1998) 1 CrApp R (S) 89

⁹ [2008] 2 Cr. App R. (S) 16, 2007 EWCA Crim 2290



1 29. The *Cayman Islands Sentencing Guidelines 2015* Principle 11 sets out guidelines in
2 relation to reduction of sentence for assistance to the prosecuting or enforcement
3 authorities. It notes that credit is available to an offender for cooperation with the
4 authorities and that the level of discount will depend on the particular circumstances of
5 the individual case and the extent and nature of the assistance given. Referring to, and
6 adopting the guidance in the UK case of *Blackburn*¹⁰ the guidelines indicate that the
7 normal level of reduction will be in the region of one half to two-thirds of the sentence;
8 that only in the most exceptional case would the appropriate level exceed three quarters
9 of the sentence, and, in exceptional circumstances, the assistance could justify the
10 imposition of a non-custodial sentence. Paragraph 39 of *Blackburn* sets out the
11 approach:

12
13 *“When it applies, the discount for the guilty plea is separate from and additional*
14 *to the appropriate reduction for assistance provided by the defendant (R v Wood*
15 *[1997] 1 CAR(S) 347). Accordingly, the discount for the assistance provided by*
16 *the defendant should be assessed first, against all other relevant considerations,*
17 *and the notional sentence so achieved should be further discounted for the guilty*
18 *plea. In the particular context of the SOCPA arrangements, the circumstances in*
19 *which the guilty plea indication was given, and whether it was made at the first*
20 *available opportunity, may require close attention. Finally we emphasise that in*
21 *this type of sentencing decision a mathematical approach is liable to produce an*
22 *inappropriate answer, and that the totality principle is fundamental. In this Court,*
23 *on appeal, focus will be the sentence, which should reflect all the relevant*
24 *circumstances, rather than its mathematical computation.”*
25

26
27 30. The one thing that all counsel are agreed on, is that more clarity and guidance in this
28 area would be useful, perhaps adopting categories similar to in the UK guidelines
29 suitably adapted.
30
31



¹⁰ supra

1 31. Much court time was taken up with the arguments summarised briefly. It is easy to lose
2 sight of the task of the court which is to sentence on the facts of the case in front of it,
3 and, to quote *Blackburn*, to pass a sentence which should reflect all the relevant
4 circumstances, rather than its mathematical computation. That is what this court
5 proposes to do, giving an indication as to the broad approach adopted.

6
7 **ROLES OF THE DEFENDANTS**

8
9 32. I turn now to the roles of the defendants in the context of the facts of this particular
10 case. I make it clear that use of the words “leading”, “significant” and “lesser” are not
11 intended to reflect the substance of the roles as set out in the UK sentencing guidelines.
12 They are just useful terminologies.

13
14 33. I start from the bottom up.

15
16 34. **Mr Ferrini** and **Mr Molina** were the couriers. They worked under instruction. Their
17 motivation was financial gain. I will put this in context when I deal with mitigation.
18 They knew what they were doing was unlawful. Theirs is a lesser role.

19
20 35. **LRPR** was involved as a middleman with links to the others in the chain. He was
21 marginally more involved than **ALTD** and played a very significant role in both
22 importations.

23
24 36. **ALTD** was also a middleman involved in the organising of the importations. He too
25 had significant although more limited links to others in the chain. He played a very
26 significant role in both importations although a lesser role than **LRPR**.



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37. **LOBO** was involved in buying the drugs which is ~~are~~ clearly on a commercial scale. He had links to others within the chain and, in particular, Mr. Noriega, the person running the South American end of the importation. The text messages between them and the pictures of what appeared to be drugs found on his phone; the money transfers made, the booking of the rooms for the couriers, the photos of the couriers on his phone, purchase of supplies, his visits to the couriers and LRPR, demonstrate the depth of his involvement. The cash found on him was consistent with the price quoted for the drugs and with him being the purchaser. He played an organisational role as well as, importantly, being the buyer/banker for the drugs. He stood to make more money than the others. He therefore played a leading role.



1 **SENTENCES**

2
3 38. I now turn to the sentences. I will start with the top of the hierarchy.

4
5 **DAVID KARL LOBO**

6
7 39. Mr. Lobo. You were convicted of one offence of importation of cocaine. I have read
8 the Social Inquiry Report (SIR) and the sentencing submissions and the documents
9 submitted on your behalf. You were, until your conviction, a person of good character.
10 You had a responsible job. By your conviction, you have lost your job and your good
11 character.

12
13 40. Even though you did not use your position as a customs officer directly in this case,
14 your conviction will carry the risk of diminishing the trust of the public in the integrity
15 of officials such as yourself and your former colleagues.

16
17 41. You are a married man. You have two children by a former relationship. I see that you
18 have done work within the church with young people and the elderly. I have read the
19 many character references from people who have known you for a long time. I am told
20 that they all knew about your conviction, although the majority of the letters make no
21 mention of the conviction and read as a general character reference. However, the point
22 is made by Miss Fosuhene that your conviction has been publicised all over the media
23 and that they could not fail to know about it.



1 42. I do not accept, as submitted on your behalf, that this was a one-off act of stupidity. I
2 have had the opportunity to observe you over a long period. You are an extremely
3 intelligent man. From the evidence, I have no doubt, from your various exchanges
4 about the drugs, in particular your exchanges with Noriega, and also your exchanges
5 with LRPR about setting up an apparently legitimate business in the Cayman Islands to
6 enable LRPR easy ingress into the country, and your attitude in evidence
7 demonstrating your willingness to trade apparently illegally smuggled statues, that you
8 were looking for and saw opportunities to make money, and smuggling drugs was one
9 of the business opportunities.

10
11 43. Having identified your role as a leading player in this single importation, I take a
12 starting point of 17 years' imprisonment. I have taken the starting point of 15 years' as
13 being for what I would term "middle management". You cannot avail yourself of credit
14 for a plea of guilty. However, I take into account your previous good character and
15 lack of convictions and everything that has been said about you. But they carry limited
16 weight in cases such as these.

17
18 44. The sentence will be one of 16 years' imprisonment. Any time spent in custody will
19 count towards the sentence.

20
21 45. A few minutes earlier, Miss Fosuhene raised the fact that you have been on bail with
22 an electronic tag from December 2017 to the 4th of January 2019 with a curfew
23 between 10:30 pm and 6:00 am. No submissions were put in writing as it was raised
24 late in the day, nor has the guidance that is available in the Cayman Islands been drawn
25 to my attention. I have some recollection of the guidance. But as Mr. Moran rightly
26 points out, first of all, and Miss Fosuhene accepts, this is a matter of discretion for the
27 court.



1 46. Mr. Moran points out that under the provisions in the United Kingdom where taking
2 such matters into account are mandatory, the hours involved in this case wouldn't even
3 qualify to be taken into account because they are under nine hours. Looking at the
4 hours, whether or not they are under nine hours, the curfew is at a time when one
5 would expect Mr. Lobo or anybody else to be at home and to be in their bed.
6 Therefore, there has been, what I would call, no extra deprivation of liberty. I,
7 therefore, exercise my discretion against giving any credit for that period with an
8 electronic tag and curfew.

9
10 **LESME ROMAULDO PEREZ-RUIZ**



11 47. I now turn to Mr. Perez Ruiz. Although middle management, you have played a very
12 significant role in these two importations, from which you benefitted financially,
13 although you would not have been the major financial beneficiary. I have found that
14 you were somewhat more involved than ALTD but below Lobo.

15
16 48. I have read the sentencing submissions and the SIR and listened to mitigation on your
17 behalf. You are a man of previous good character, a family man with several children.
18 You were a hard-working businessman. It is submitted that when the recession hit, you
19 fell into debt and fell to the temptation of earning money by illegal means.

20
21 49. The court pointed out to Mr. Davies, who represents you, that the author of the SIR
22 thinks that your business was doing well when you were first tempted into drugs. It
23 was submitted that this was perhaps a misunderstanding. But I also pointed out that
24 nowhere during the numerous exchanges between the conspirators was there any
25 reference to desperate straits, although it is accepted that you did ask for money
26 upfront to pay expenses.
27

1 50. The discussion you had with Mr. Lobo about setting up an apparent business in the
2 Cayman Islands to allow you easy access to the country smacked of long-term
3 planning, not of an opportunistic involvement to pay off debts. I also note that you had
4 a business partner and that your outstanding loan has been paid off during your time in
5 custody.

6
7 51. You pleaded guilty at the outset, but then changed your plea. On oath you told the
8 court that you changed your plea after you'd spoken to Mr. Lobo, who promised you
9 help for your defence, but that no help was forthcoming. You also told the court that
10 you decided to change your pleas back to guilty once you had seen the case papers and
11 the strength of the case against you. There is no suggestion of coercion. Whilst you
12 will receive some credit for your plea, it cannot be full credit.

13
14 52. Importantly though you had the courage to give evidence against your co-defendant,
15 and the Crown have confirmed that your cooperation has been most valuable, I note
16 that you now reside in some isolation as you fear for your safety in prison - having
17 received threats communicated to your children. You are also in prison in a foreign
18 country, which cannot be easy.

19
20 53. You fall to be sentenced for two offences. Both the Crown and the defence have
21 submitted that concurrent sentences are appropriate. The offences are arising out of
22 related facts of the same nature; however, it is accepted that one offence aggravates the
23 other and that may be taken into account.



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1 54. The sentences will be concurrent and expressed in similar terms, although technically
2 there could be a difference given the maximum sentences, but the practical effect is the
3 same. Bearing in mind that the court is sentencing you for two offences, I take a
4 starting point of 18 years' on the importation count, which takes account of the
5 conspiracy count as an aggravating factor. I have noted all the mitigation. In so far as
6 assistance to the authorities is concerned, I take the figure very close to two-thirds.
7 This was significant assistance but not falling into the exceptional category where, for
8 example, there was evidence that the assistance may have led to the dismantling of a
9 drug smuggling organisation.

10
11 55. Then, taking into account significant, but not full, credit for a plea of guilty, the
12 sentence the court passes is one of five (5) years' imprisonment on each count to run
13 concurrently; time spent in custody will count towards the sentence.

14
15 56. You asked for a recommendation that your sentence be served in your own country.
16 That is a matter for your lawyers to take up with the appropriate authorities.

17
18 **ALLAN LAWREMS TAYLOR-DOMINGUEZ**

19
20 57. Mr. Taylor-Dominguez. Although middle management, you too have played a very
21 significant role in these two importations from which you benefitted financially,
22 although somewhat less than LRPR. You gave yourself up to the authorities, and
23 although you pleaded not guilty to the conspiracy charge, very soon thereafter, once
24 you had a change of legal representation, you pleaded guilty and then offered to give
25 evidence against your co-defendants, which included at the time LRPR and Lobo. You
26 eventually gave evidence in the trial of Mr. Lobo.

1 58. You were a married man with children and a person of previous good character. You
2 were in employment at the time of the offences. You were not in desperate straits when
3 you undertook to be involved in these offences. Your risk of reoffending, however, is
4 assessed as low.

5
6 59. I have to sentence you for two offences. I remind myself that the maximum sentence
7 for the importation is 20 years' imprisonment as your plea was taken in the Summary
8 Court, and with regard to that sentence I am imposing it, as already noted, exercising
9 the powers of the Summary Court. For the purpose of calculation, I take a starting
10 point in your case as 17 years' on the importation count, which takes into account the
11 conspiracy counts in light of the concurrent sentences to be passed. You too will
12 receive a substantial discount for your assistance, very close to two-thirds, and then full
13 credit for your pleas of guilty. The sentence will be one of four (4) years'
14 imprisonment. That is, 4 years' imprisonment on Count 1 on the Indictment and 4
15 years' imprisonment on Summary Court Charge 02966/2017 – to run concurrently.
16 Time spent in custody on remand will count towards the sentence.



17
18 **MR. FERRINI AND MR. MOLINA**

19
20 60. Mr. Ferrini and Mr. Molina, I sentence you both exercising the powers of the Summary
21 Court and reminding myself that the maximum sentence in your case is 20 years'.

22
23 61. You both played a lesser role in the importations and acted under direction. You knew
24 the scale of the operation as you were aware of what you were carrying and later what
25 was converted back into powder form. You are far less sophisticated than your co-
26 defendants.

27

1 62. You committed the offence, as it turns out, for little financial benefit. I accept the
2 motivation which led you, Mr. Ferrini, to committing the offences, namely, the
3 perilous situation in Venezuela where you were driven to seek private healthcare to
4 save your baby. And you, Mr. Molina, you were helping out to save your nephew. As
5 it transpired, you were arrested and thus you were not paid for the trip, and your baby,
6 Mr. Ferrini, died as a result of receiving no treatment. The court offers its condolences
7 for your loss.

8
9 63. It is often the case that couriers are people who are vulnerable and open to exploitation
10 and are tempted by the offer of money to improve their lives. This case is one that
11 involves exploitation of someone who was not only very poor but also in a desperate
12 situation of not being able to provide for healthcare to save his baby born with
13 hydrocephalus, having been born prematurely.

14
15 64. The court, in my judgment, is entitled to take this into account and make a suitable
16 reduction in this kind of situation. I do take into account, therefore, what led both of
17 you to commit the offences and also the hardship suffered by you on remand in a
18 foreign prison.

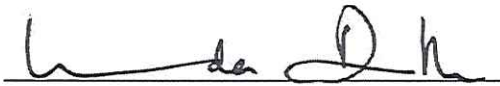
19
20 65. You were both men of previous good character. You, Mr. Ferrini, are married with a
21 family, and you, Mr. Molina have a daughter. You have both pleaded guilty at the first
22 opportunity and are thus entitled to full credit for the pleas.

23
24 66. I take a starting point of 12 years to reflect your lesser roles.



1 67. Taking into account all the mitigation, including the pleas of guilty, that the sentence in
2 respect of both of you on Summary Court Charge #02960/2017 will be one of six (6)
3 years' imprisonment. Time spent in custody will count towards the sentence.
4
5
6

7 **Dated this the 29th March 2019**

8 
9



10 **Dame Linda Dobbs**
11 **Acting Judge of the Grand Court**
12