



1 **IN THE GRAND COURT OF THE CAYMAN ISLANDS**
2 **CRIMINAL DIVISION**

4 **INDICTMENT NO: 94 OF 2022**
5 **CHARGE 01580/22 and 01581/22**

8 **REX**

10 **V.**

12 **VIDOL ANFERNIE LA FLEUR**

13 **ONICA VIOLETTA BARCLAY**

14 **SHERON ANN MOSES**

17 **Appearances:** **Mr. Orrett Brown Crown Counsel for the Prosecution**
18 **Mr. Keith Myers for the Defendant Vidol La Fleur**
19 **Mr. Crister Brady for the Defendant Onica Barclay**
20 **Mr. John Furniss for the Defendant Sheron Moses**

22 **Before:** **The Hon. Justice Cheryll Richards KC**

23 **Submissions Heard:** **17th March 2023**

25 **Sentence Judgment:** **5th April 2023**

27 **HEADNOTE**

28 ***Criminal Law-Section 3 of the Misuse of Drugs Act (2017 Revision),***
29 ***Sentencing, Importation of a Controlled Drug, Cocaine***



SENTENCE JUDGMENT

1. The three defendants are before the Court for sentencing following their guilty pleas to offences of Importation of Cocaine contrary to s.3 (1) (a) of the *Misuse of Drugs Act* (2017 Revision).
2. The particulars of the charge against Vidol Anfernie La Fleur are that he on the 5th day of October 2022 within the jurisdiction of the Cayman Islands, without lawful excuse or without being authorised in that behalf imported a controlled drug namely cocaine, 1,225.98 grams or 44.3 ounces.
3. The particulars of the charge against Onica Violetta Barclay are that she on the 5th day of October 2022, within the jurisdiction of the Cayman Islands, without lawful excuse or without being authorised in that behalf imported a controlled drug namely cocaine, 1,164.55 grams or 41.07 ounces.
4. The particulars of the charge against Sheron Ann Moses are that she on the 5th day of October 2022, within the jurisdiction of the Cayman Islands, without lawful excuse or without being authorised in that behalf imported a controlled drug namely cocaine, 693.68 grams or 24.47 ounces.
5. All three defendants first appeared in the Summary Court on the 10th October 2022. After three adjournments to allow for legal aid arrangements to be settled, on the 15th November 2022, Ms. Barclay and Ms. Moses elected trial in the Summary Court. They were arraigned and entered pleas of guilty. The defendant La Fleur elected trial in the Grand Court. A short form preliminary inquiry was conducted.
6. Mr. La Fleur first appeared in the Grand Court on the 25th November 2022. There was one adjournment to allow for the filing of the Indictment. On the next appearance on the 9th December 2022, the defendant was arraigned and pleaded guilty. A Social Inquiry Report (“SIR”) was ordered.
7. On the 18th January 2023, the two female defendants confirmed to the Summary Court that they were maintaining their guilty pleas. This was notwithstanding what appeared to be some



1 12. Ms. Moses, who had left the airport in a taxi before suspicions were raised, was called back to
2 the airport. All three were detained and their luggage searched. Ms. Moses's luggage had three
3 pairs of sneakers with false soles. The soles felt stiff to the touch. When pierced, there was
4 cocaine inside the soles. Additionally, Ms. Moses expelled a package from her anus which also
5 contained cocaine. Ms. Moses said that this was for her personal use. Ms. Barclay's luggage
6 contained five pairs of sneakers which also had false soles with cocaine. Mr. La Fleur's luggage
7 contained five pairs of sneakers with false soles which contained cocaine.

8
9 13. Each defendant was interviewed under caution in the presence of duty Counsel. In interview, Ms.
10 Moses admitted that Ms. Barclay is her daughter, and that Mr. La Fleur is the gentleman friend
11 of Ms. Barclay. She said that Ms. Barclay had been given the sneakers by a family friend by the
12 name of George in Georgetown, Guyana. She said that Ms. Barclay's suitcase had been
13 overweight, and that Ms. Barclay had placed the three pairs of sneakers into her luggage at the
14 airport. Ms. Moses denied knowing that the sneakers contained cocaine but admitted that the
15 package which she had carried in her body was cocaine for her personal use.

16
17 14. Mr. La Fleur in his interview stated that Ms. Barclay is his girlfriend. He said that he had left his
18 suitcase with Ms. Moses and returned to find it heavier than before and locked. He said that he
19 was given instructions and plane tickets by Ms. Moses. The instructions included that he was to
20 say that he did not know the women and was travelling alone. He denied knowing that the suitcase
21 contained cocaine.

22
23 15. In her interview, Ms. Barclay explained that she had opened a bar, two or three months before
24 October 2022. She needed money to finish the bar. She sought the assistance of a family friend
25 named George. He offered her six thousand dollars in exchange for carrying ten pairs of sneakers
26 to the Cayman Islands. She was to receive further instructions on arrival in the Cayman Islands.
27 She said that she had placed the sneakers in Mr. La Fleur's suitcase.

28
29 16. For the purpose of this sentence hearing certificates from the Analyst were received as Exhibit
30 1¹, photographs of the sneakers and drugs as Exhibit 2² and the antecedent records of the
31 defendants as Exhibit 3.

¹ Pages 90 -103 of Hearing Bundle

² Photographs at pages 106 to 123 of Hearing Bundle



1 **ANTECEDENT HISTORY**

- 2
- 3 17. The defendants have no previous convictions in the Cayman Islands and all self-report that they
- 4 have no previous convictions in any other part of the world.
- 5

6 **SOCIAL INQUIRY REPORTS**

- 7
- 8 18. The DCR has provided a SIR in respect of the defendant. La Fleur dated 6th February 2023.
- 9 Although all of the report is not set out herein, the Court has read this report in its entirety and
- 10 takes into account everything said therein in favour of the defendant. The defendant is twenty-
- 11 six years old. His early childhood was difficult due to the absence of his parents. This impacted
- 12 him negatively. Since leaving school at the age of fifteen years he has been gainfully employed
- 13 as a fisherman.

- 14
- 15 19. He has been in a relationship with Ms. Barclay since he was eighteen years old. He expressed to
- 16 the Probation Officer his anger at Ms. Barclay whom he blames for his involvement in this
- 17 offending. Family members describe him as a caring and kind person. Since being on remand he
- 18 has been working in the kitchen of the prison as a helper and attends educational and rehabilitative
- 19 programmes. He is described by the prison authorities as respectful and well behaved.

- 20
- 21 20. The Probation Officer's view is that Ms. Barclay was the dominant partner in the relationship
- 22 given the age differences between the two. Mr. La Fleur was assessed as at medium risk of re-
- 23 offending with only one of the eight criminogenic factors in the High category.

- 24
- 25 21. The DCR has provided a SIR dated 12th January 2023 in respect of the defendant Barclay.
- 26 Although all of the report is not set out herein, the Court has read this report in its entirety and
- 27 takes into account everything said therein in favour of the defendant.

- 28
- 29 22. Miss Barclay is forty-three years old. She is the mother of one child who is twenty-two years old.
- 30 The child has completed school and is enrolled in a training programme. The defendant reported
- 31 having a good childhood with no history which would have had any adverse effects upon her.
- 32 She completed school without incident and was gainfully employed at various jobs. She told the
- 33 Officer that she obtained a bar license in September 2022 but said that due to financial constraints



1 the business was not productive. She said that she was promised money (\$3,000.00) for bringing
2 the shoes to the Cayman Islands. She said that due to her own luggage being overweight she
3 distributed some of the sneakers into the luggage of the other two defendants. She said that the
4 trip to the Cayman Islands had been initially planned for them to seek work. It was after this was
5 planned that she was endeavouring to secure a loan to stock her bar and she was introduced to a
6 man by the name of “One Foot” who offered to lend her \$3,000.00 if she would take the sneakers
7 to the Cayman Islands. She was told that sending them by mail would take a longer time. In
8 relation to her statements the Officer states:-

9
10 *“Generally, when Ms. Barclay was asked about the discrepancies between the information*
11 *she had provided and what is indicated in the Police statement of facts, she appeared to*
12 *avoid addressing the discrepancies and continued to insist that she had no idea that the*
13 *sneakers that she was carrying contained drugs. She shared that there is no way she would*
14 *have knowingly placed her mother and her fiancé in a situation that would result in*
15 *criminal charges of such serious nature.*

16
17 *Overall, the interviews with the client and collateral information revealed a number of*
18 *discrepancies, and appears to suggest that Ms. Barclay has not been forthcoming with*
19 *information. It is assessed that Ms. Barclay failed to take full responsibility for her actions*
20 *and has instead continued to portray herself as a naive individual who was taken*
21 *advantage of due to her poor financial standing.”*

22
23 23. Through the Probation Officer, the defendant asks for mercy for her family and says that she
24 believes that they should not be held accountable for her mistake.

25
26 24. Since being incarcerated, Ms. Barclay has been working in the kitchen of the Prison and earns a
27 small weekly stipend. She has participated in several courses and earned certificates. She speaks
28 of being ashamed of her criminal involvement and that she does not want her child or family to
29 know about her offending. She also reports that since being incarcerated her mental health has
30 declined due to emotional and physical abuse from other inmates. Prison staff have advised that
31 the defendant received a verbal caution as to her involvement with other inmates.



1 25. The defendant was assessed as being at medium risk of re-offending. Her score was a high one
2 under pro-criminal attitude or orientation. The Officer concludes that she continues to minimize
3 her actions and not to accept full responsibility and that her conduct in the course of travelling to
4 deny that she knew her co-accused is suggestive of criminal behavior.

5
6 26. The SIR in respect of Ms. Moses is dated 4th January 2023. Although all of the report is not set
7 out herein, the Court has read this report in its entirety and takes into account everything said
8 therein in favour of the defendant. The defendant is sixty-five years old. She is the mother of
9 five children all of whom are of mature years. She had a good childhood with no issues or
10 difficulties and as an adult has been gainfully employed. She has been occupied whilst at the
11 prison and enrolled in several courses and rehabilitative programmes,

12
13 27. Ms. Moses told the Officer that the shoes had been placed in her bag by her daughter. The Officer
14 identified discrepancies in the account of Ms. Moses as follows:-

15
16 *“It is noted that throughout the interview with Ms. Moses, her stories kept changing about*
17 *her knowledge of having the drugs (cocaine) in pairs of shoes and the amount she had*
18 *inserted into her anus. She justified her responses by stating that her daughter, Onica*
19 *Barclay (co-accused) had purchased ‘stuff’ in Customs (Suriname) so upon their arrival*
20 *in Jamaica, her (Onica’s) luggage was overweight hence she placed the pairs of shoes into*
21 *her luggage. When probed about the reason for inserting the ‘forty dollars US worth’*
22 *cocaine into her anus, she claimed it’s ‘just for personal use’. Asked about if she tends to*
23 *travel with her ‘personal use cocaine’ whenever she travels locally and internationally,*
24 *she became tearful and gave no verbal response. She further divulged that if she knew that*
25 *the shoes her daughter gave her had cocaine, she would have thrown it through the window*
26 *of the taxi when the taxi driver was summoned to return to the airport. Seemingly, based*
27 *on the discrepancies in her account and her disclosure of travelling frequently both locally*
28 *and internationally, she is fully aware that she violate[d] the Custom[s] and Border*
29 *Control Law of the Cayman Islands or any other countries that she [travelled] enroute....”*
30

31 28. The Probation Officer also notes the inconsistency between her account of being a spiritualist
32 who treats people with herbs and her own account of using cocaine for symptoms of depression.



1 The Officer describes her attempt to justify the importation of cocaine into the Cayman Islands
2 as being for personal use for depression as suggestive of “her embedded criminal thinking”.

3
4 29. Ms. Moses was assessed as being at medium risk of re-offending.

5
6 **THE CHIEF JUSTICE’S GUIDELINES 2002**

7
8 30. The Sentencing guide in respect of Drug offences in the Cayman Islands is the *Statement on*
9 *Tariffs and Guidelines for Certain Offences* issued by the Chief Justice in 2002. This refers to
10 the widespread problem with cocaine abuse in these Islands and provides for a tariff for offences
11 of trafficking in hard drugs involving 2 ounces or more without mitigating circumstances of 10-
12 12 years. A tariff of 15 years or more is proposed when the offences involve substantial
13 importation or dealing of quantities of several ounces or kilos. A reduction from these
14 recommended tariffs is to be applied when there has been a guilty plea. The *Guidelines* further
15 state the recognition of the Courts that many of the people caught are couriers or intermediaries
16 and that the worst offenders in the chain of distribution often remain concealed. Assistance to
17 identify offenders in the chain will attract a substantial discount on sentence, for those offenders
18 who are prepared to co-operate with the police in their enquiries. It was stated:-

19
20 *“As regards DRUG OFFENCES under the Misuse of Drugs Law and in particular those*
21 *related to the widespread problem with cocaine abuse in these Islands, the following tariffs*
22 *are now confirmed: ...*

23
24 *At the other end of the scale of gravity, that is to say, trafficking in hard drugs in any*
25 *quantity as defined in the Misuse of Drugs Law, the maximum penalty prescribed for*
26 *offences involving 2 ounces or more is 20 years for the first offence and 30 years for a*
27 *second or subsequent offence with an unlimited fine in each case. That of course is the*
28 *maximum – the sentence for the worse possible offence by the worse possible offender.*

29
30 *The tariff for a first such offence, involving less than 2 ounces of cocaine or less than 4*
31 *grams of cocaine base without mitigating circumstances, will be 8 years.*



1 For offences involving 2 ounces or more or 4 grams or more of cocaine base without
2 mitigating circumstances the tariff will be 10 to 12 years.

3
4 15 years or more will be imposed where such an offence involves substantial importation
5 or dealing in anyway either in powder or crack cocaine. We would define ‘substantial
6 importation or dealing’ as any transaction involving several ounces or kilo quantities.

7 The Courts recognise that many of the people caught are couriers or intermediaries and
8 that the worse offenders in the chain of distribution often remain concealed. Therefore
9 there will be a substantial discount on sentence for those offenders who are prepared to
10 co-operate with the police in their enquiries.”

11
12 31. In the recent case of *Michael Palmer v R*³, the Cayman Islands Court of Appeal (“CICA”) re-
13 affirmed that the *Statement of Tariffs and Guidelines* remains the definitive source of sentencing
14 guidance in cases such as the present. This is notwithstanding the passage of time since they were
15 propounded and notwithstanding that the maximum sentence for the offences has substantially
16 increased.

17
18 32. In that case the appellant *Palmer* imported 1.93 kgs of cocaine. He entered a plea of guilty in the
19 Grand Court on the 15th July 2019. He was sentenced on the 3rd October 2019 on the basis that
20 he was a courier. In sentencing him Chapple J. applied a starting point of 15 years. Following
21 reduction for mitigating factors and guilty plea, the appropriate sentence was determined to be
22 one of 8 years and 3 months.

23
24 33. The CICA approved the starting point of 15 years as being reflective of the *Statement of Tariffs*
25 *and Guidelines*. In its judgment the Appellate Court stated that this was a substantial importation
26 by a person who had at least some involvement in the planning.

27
28 34. In the related case *Kemar Boothe v. R*⁴, in which the appellant was said to have played a
29 significant role as one of the persons who had organised the importation of the drugs, the
30 Appellate Court considered that a starting point of 17 years was appropriate.

31

³ CICA Appeal 23/2019 Unreported Judgment dated 25th November 2020

⁴ CICA Appeal 3/2021 and 4/2021, Unreported Judgment dated 14th December 2021



1 **UNITED KINGDOM SENTENCING COUNCIL DEFINITIVE GUIDELINES**

2
3 35. The *United Kingdom Sentencing Council Definitive Guidelines* for Drug offences⁵ is of
4 assistance in determining the levels of culpability and harm for this offending. Under those
5 Guidelines the category of Harm is indicated by the quantity of the drug imported. Category 2 is
6 1 kg and above of cocaine. Category 3 is 150 grams of cocaine and above.

7 36. Ms. Barclay had 1.164 kilograms. Mr. La Fleur had 1.225 kilograms. Both are at a Category 2
8 level of Harm. Ms. Moses had 0.69 kilograms and is at Category 3 level of Harm.

9
10 37. Culpability is demonstrated by the role played by the offender. The *Guidelines* provide: -
11

12 *“LEADING role:*

- 13
- 14 • *directing or organising, buying and selling on a commercial scale;*
 - 15 • *substantial links to, and influence on, others in a chain;*
 - 16 • *close links to original source;*
 - 17 • *expectation of substantial financial gain;*
 - 18 • *uses business as cover; and*
 - 19 • *abuses a position of trust or responsibility.*

20 *SIGNIFICANT role:*

- 21
- 22 • *operational or management function within a chain;*
 - 23 • *involves others in the operation whether by pressure, influence, intimidation*
24 *or reward;*
 - 25 • *motivated by financial or other advantage, whether or not operating alone;*
26 *and*
 - 27 • *some awareness and understanding of scale of operation.*
- 28

⁵ Fraudulent Evasion of a prohibition by bringing into or taking out of the UK a controlled drug



1 *LESSER role:*

- 2 • *performs a limited function under direction;*
- 3 • *engaged by pressure, coercion, intimidation;*
- 4 • *involvement through naivety/exploitation;*
- 5 • *no influence on those above in a chain;*
- 6 • *very little, if any, awareness or understanding of the scale of operation; and*
- 7 • *if own operation, solely for own use (considering reasonableness of account*
- 8 *in all the circumstances). ”*
- 9

10 **SUBMISSIONS OF THE PROSECUTION**

11

12 38. Prosecuting Counsel submits that the three defendants were involved in a substantial importation

13 of cocaine given the quantities imported. Counsel submits that Ms. Moses appeared to have

14 performed a lesser role under the direction of Ms. Barclay. Mr. La Fleur also appears to have

15 played a lesser role and limited function under direction. He may have been involved through

16 misplaced trust. Ms. Barclay appears to have carried out a significant role. She was motivated

17 by financial advantage and influenced others in the operation.

18

19 39. Counsel submits that there are three aggravating factors:-

20

- 21 i. The level of planning as indicated by the circuitous route taken;
- 22 ii. The quantity of cocaine which suggests that it was part of a larger drug smuggling
- 23 operation; and
- 24 iii. The relatively sophisticated concealment of the cocaine.
- 25

26 40. The prosecution is agreed that each defendant pleaded guilty at the first reasonable opportunity

27 and would ordinarily be entitled to a full discount for their guilty pleas. This is subject only to a

28 possible finding that the evidence against them is overwhelming.

29

30

31

32

33



1 **SUBMISSIONS OF THE DEFENCE**
2

3 41. Mr. Myers on behalf of the defendant La Fleur asks the Court not to distinguish between the
4 defendants who pleaded guilty at different stages. Counsel said that in relation to Mr. La Fleur
5 the evidence is not overwhelming and that the maximum possible discount is being sought.
6

7 42. Counsel submits that based upon the facts, the defendant played a lesser role and had a limited
8 function. He was clearly in a position of a courier or mule. He was acting under direction and did
9 not operate a management function in a chain. Counsel said that between leading and lesser roles
10 there is nearly a fifty percent difference in sentence which is significant. Counsel said that it is
11 accepted that the defendant had the larger amount of cocaine.
12

13 43. Counsel asked the Court to contrast the amount which the defendant had with the amount that
14 the appellant had in the case of *Palmer*. That appellant had almost 2 kilograms of cocaine.
15 Counsel said that this defendant had sixty percent of that and thus should be sentenced at the
16 lower end of the 2002 *Guidelines*.
17

18 44. Counsel also referenced the case of *Seaford Laborde v, R.*⁶ The appellant Laborde had in his
19 possession 987 grams of cocaine. He received a 14-year sentence in the Summary Court which
20 was upheld on appeal.
21

22 45. In mitigation, Counsel submitted that as indicated in the SIR, the defendant did not have the most
23 supportive of backgrounds. Counsel said that the Probation Officer's view is that he is seeking
24 from his current relationship the emotional support which he did not have when he was younger.
25 Counsel said that the defendant is vulnerable and needs a crutch to rely on. One can see that he
26 became involved because of outside influences.
27

28 46. Counsel asked the Court to note that he is at medium risk of re-offending and said that although
29 the custody threshold has been passed, one would ask for compassion. He is a very young man
30 of good character, impressionable and needs support. Counsel said that any period of sentence
31 would be a deterrent for him.
32

⁶ CICA 19 of 2013, unreported judgment dated 24th October 2014



- 1 47. Counsel Mr. Brady on behalf of the defendant Barclay submitted that there are some similarities
2 of circumstances with other sentences imposed in previous cases. Counsel referred to the case of
3 *Mitchell Comrie v. the Queen*⁷. Counsel said that one can assume regardless of the role
4 performed, that the offence was carried out for financial gain. No one transports drugs for the fun
5 of it. Counsel said that arguably there were significant roles for the other two defendants as well.
6 Counsel submits that the role performed by the defendant Barclay should be classified as a lesser
7 role and not a leading role. Counsel said that Ms. Barclay would not be at the head or front of the
8 operation and would know very little. Counsel said that it is accepted that she would be the
9 contact person for the purpose of the trip, but this bears little distinction from the role of a courier.
10 Counsel urged that she was very low in the scale of the operation.
- 11
12 48. Counsel submitted that the amount of drugs in some of the authorities is significantly higher than
13 the amount in this case. Counsel referenced the case of *R. v. Kenecia Millwood*⁸ in which the
14 amount of the drug was 2.86 kgs, twice the amount of drugs which Ms. Barclay had. In the case
15 of *Millwood*, the Appellate Court considered that the appropriate starting point was 15 years and
16 not 17 years. The Appellant's sentence was reduced from 12 years to 10 years. This was on the
17 basis that the role carried out was a lesser role. Counsel also referenced the case of *R. v. Lesme*
18 *Perez and David Lobo*⁹ where starting points of 18 years were applied for those in significant
19 roles and 12 years for those found to be couriers. Defendants who had provided help and
20 assistance received substantial reductions in sentence.
- 21
22 49. Counsel said that Ms. Barclay has provided the name and contact details of the person who gave
23 her the items but she was never aware of the contact person in the Cayman Islands and is not able
24 to provide more information. This supports the position that her role may not be as significant as
25 the prosecution argues.
- 26
27 50. In mitigation, Counsel submitted that from the SIR it can be seen that the defendant sought to
28 better herself through academia and that even while in prison she has obtained a number of
29 certificates which show that she is capable of making use of her time. Counsel said that transcripts
30 from her courses indicate a high level of intelligence on her part. Counsel produced to the Court
31 several transcripts and certificates. These include a Diploma and Academic transcript which

⁷ SCA 1 of 2011- [2012 (1) CILR Note 3]

⁸ ⁸ CICA Appeal 30/2014 unreported judgment dated 7th November 2016

⁹ Ind 100/2017 - Grand Court unreported Judgment, 29th March 2019



1 confirms that the defendant completed studies in hospitality management in February 2023. The
2 records for eight certified courses were also produced. The defendant achieved high marks in all
3 courses. There is also a Certificate of successful completion in starting a business dated 16th
4 November 2022 and a Certificate in Expansion of Business dated 17th November 2022. Counsel
5 said that the defendant is working in the kitchen at the prison and is being productive.

6
7 51. Counsel said that the defendant accepts that she was foolish. There was a certain level of
8 desperation which drove her to embark upon the now ill-advised course. She is ashamed and
9 remorseful. Her early guilty and her co-operation as far as she is able to co-operate with inquiries
10 here and overseas is evidence of her remorse. She has significant feelings of guilt for the position
11 that her mother and Mr. La Fleur are in. Counsel said that it is not disputed that the custody
12 threshold is passed, and the defendant does not expect anything other than a custodial sentence.
13 She takes the matter quite seriously.

14
15 52. Counsel invites the Court to consider a sentence that will allow the defendant and her mother to
16 be able to leave the jurisdiction before long and return home. She would not wish to continue to
17 be a burden on the Islands and asks the Court to temper justice with mercy.

18
19 53. Defence Counsel Mr. Furniss on behalf of the defendant Ms. Moses submitted that the defendant
20 Moses is sixty-five years old. She has health issues¹⁰ and is older in years. She is the only one of
21 the three that imported cocaine for her own use. She was asked to return to the airport. She could
22 easily have gotten rid of the sneakers before she returned. Counsel submitted that under the
23 ***United Kingdom Sentencing Guidelines***, the cocaine for her own use would be a Category 3
24 offence and would attract a sentence of 3 1/2 to 5 years. The starting point in those ***Guidelines***
25 would be 4 1/2 years.

26
27 54. Counsel submits that given her lesser role, from a starting point of 12 years the defendant ought
28 to receive a sentence of no more than 5 or 6 years. Counsel said that the defendant is aware that
29 she will receive a custodial sentence and that the Cayman Islands views drug offences seriously.
30 Counsel asks that the Court view her situation with sympathy and consider her position in a
31 different light from that of the other two defendants.

32
33

¹⁰ Kidneys and cataracts



1 **THE SENTENCE**

2
3 55. It is evident from the route travelled that this was a carefully planned drug smuggling operation.
4 Photographs have been tendered in evidence of the sneakers. The method of concealment appears
5 to be relatively sophisticated. Notably, from the accounts given, the cocaine, which was placed
6 in the suitcases in Guyana, passed through three other countries and was not detected prior to
7 arrival in the Cayman Islands.

8
9 56. The defendants all pretended to be travelling separately. It is a reasonable inference that there
10 would have been no need for this pretense and for them to deny knowledge of each other if this
11 was legitimate travel for the purpose of seeking work in the Cayman Islands as claimed. So
12 deliberate was the attempt to appear to be traveling alone, that Ms. Moses who was cleared first
13 by Immigration had to be called back to the Airport after the other two had been stopped. It
14 makes no sense that a mother coming to a country for the first time would leave her daughter and
15 the daughter's friend in the airport and travel on alone when they were all to be staying at the
16 same hotel. This is a case where each had possession of a suitcase in which was found in sneakers
17 the substance identified to be cocaine. Taken together with their conduct and the circumstances,
18 the evidence would be close to overwhelming that they each knew that they were carrying illegal
19 drugs. Ms. Moses had cocaine inside her body, even without her admission, the evidence in her
20 case as to that amount is overwhelming. However, the prosecution has charged one offence in
21 respect of Ms. Moses.

22
23 57. The ill effects of the use of cocaine upon the society is well known and has been highlighted in
24 numerous cases before this Court. To transport cocaine into the Islands is an offence of the utmost
25 seriousness and deserving of strong condemnation. Any sentences to be imposed must have as
26 its primary aims punishment as well as deterrence of others who would seek to import drugs into
27 the Cayman Islands.

28
29 58. Two of the defendants had more than 40 ounces of cocaine. One had more than 20 ounces of
30 cocaine. This is thus a case of substantial importation which under the 2002 *Guidelines*, would
31 attract a starting point of 15 years imprisonment depending on the circumstances.

32
33 59. The defendant Barclay from her own statements in interview appears to have played a significant
34 role. She was motivated by financial gain. While she is clearly not at the highest level in the chain



1 and does not appear to have performed a management function, she is more than a courier. On
2 her own account she received the shoes from a person by the name of “One Foot” and distributed
3 them to the others. She it was who influenced or involved the other two persons. She carried out
4 a function which in effect enlisted or recruited the aid of other couriers. It is not unreasonable to
5 conclude that had it not been for her the others would not have imported cocaine in these large
6 amounts. There is no indication that the defendants La Fleur and Moses are other than couriers.

7
8 60. With respect to the defendant La Fleur, while he is treated as a courier, he imported a substantial
9 quantify of cocaine. The starting point in his case is 15 years.

10
11 61. Under the *United Kingdom Guidelines* there would be an aggravating factor of the sophisticated
12 nature of the concealment as well as the attempt to avoid detection which would ordinarily serve
13 to increase the sentence. The Court does not propose to add to the starting points in this case in
14 respect of all three defendants and considers that the starting points adequately reflect the serious
15 nature of the offending.

16
17 62. In mitigation account is taken of everything said or written in the defendant La Fleur’s favour.
18 He has no previous convictions and is of good character. He is relatively young and has good
19 personal qualities. He had some childhood difficulties. Of some significance is that he may well
20 have been influenced by Ms. Barclay to carry the cocaine. He is said to be vulnerable and in need
21 of emotional support. He will be incarcerated in a foreign country away from his home and other
22 family members. Thirty (30) months (or 16.5%) is deducted from the starting point (of 180
23 months) for a sentence of 150 months.

24
25 63. He is afforded the full credit of one third for his guilty plea for a sentence of 100 months or 8
26 years and 3 months imprisonment. Time served is to be taken into account.

27
28 64. Onica Barclay is treated as more than a courier but much less than a management role. Applying
29 the *Guidelines*, she played a significant role. She had a substantial quantity of the drug. The
30 starting point in her case is one of 16 years imprisonment, (192 months).

31
32 65. In mitigation, the Court takes into account everything said or written in the defendant’s favour.
33 She has no previous convictions and is a person of good character. She is ashamed and
34 remorseful. There is said to have been an element of desperation which led to this offending. She

1 has co-operated and assisted as far as she is able. She has good personal qualities and has been
2 hardworking over her adult life. She has spent her time productively while on remand as
3 evidenced by the certificates produced on her behalf. She will be incarcerated in a foreign country
4 away from her home and other family members. Thirty (30) months (or 15.5%) is deducted from
5 the starting point for a sentence of 162 months.
6

7 66. She is given the full discount of one third for her guilty plea for a sentence of 108 months or 9
8 years imprisonment.


9
10 67. Ms. Moses is treated as a courier. She had the smallest amount of cocaine. She had about 20
11 ounces less than the others. A portion of this was for her personal use. A starting point is adopted
12 in her case of 12 years (144 months).

13
14 68. In mitigation, account is taken of everything said or written in the defendant's favour. These
15 include the following. She is of good character with no previous convictions. Her age, she is
16 sixty-five years old and the possible adverse effect of any sentence upon her. Her health issues
17 and her personal circumstances as outlined in the SIR and by her Counsel. She appears to have
18 been a hard-working individual and is even now doing her best to be productive. Twenty-four
19 (24) months is deducted in mitigation. She is given the full one third discount for her guilty plea
20 for a sentence of 6 years and 7 months imprisonment.

21
22 69. In each case any time served is to be deducted.

23
24 70. The drugs are ordered forfeited to the Crown to be destroyed.
25

26 **Dated this the 5th day of April 2023**

27 

28 **The Hon. Justice Cheryl Richards KC**
29 **Judge of the Grand Court**