



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

3  
4 **INDICTMENT NO: 73/21**

5  
6 **THE QUEEN**

7  
8 **v.**

9  
10 **EDDREE JOANN FISHER**

11  
12  
13  
14 **Appearances: Mr. Orett Brown for the Crown**  
15 **Ms. Amelia Fosuhene Attorney for Defendant**

16  
17 **Before: Hon. Justice Marlene Carter (Actg.)**

18  
19 **Heard: 16 December 2022**

20  
21 **Sentence Delivered: 18 January 2023**  
22

23  
24 **HEADNOTE**

25 **Criminal Law – Conspiracy to import ganja – breach of position of trust – leading role.**  
26

27 **SENTENCE JUDGMENT**  
28

29 1. The defendant is before the Court to be sentenced after she pleaded guilty to the offence of  
30 conspiracy to import a controlled drug, namely ganja, contrary to section 321 of the Penal Code  
31 (2018 Revision). The Particulars of the Offence are:

32  
33 *“Eddree Fisher between the 18<sup>th</sup> day of January 2018 and the 29<sup>th</sup> day of April 2018,*  
34 *within the jurisdiction of the Cayman Islands, without lawful excuse or*  
35 *authorization, conspired together with Corey Miller and Kelven Claret to import*  
36 *a controlled drug, namely ganja.”*  
37



1 2. There is no issue with the facts of the case as presented by the Crown on the sentence hearing. As  
2 such, the facts set out hereinafter are adapted from paragraphs 13-21 of the Crown's submissions.  
3

#### 4 **FACTS**

5  
6 3. *The defendant was a customs and border control officer. She was stationed at the Owen Roberts  
7 International Airport between 18 January 2018 and 29 April 2018. The charges arise from an  
8 investigation into the importation of ganja through the airport by Corey Miller and Kelven Claret.  
9 Mr. Miller sourced the ganja. Mr. Claret was the courier. The defendant used her position to  
10 facilitate the movement of the ganja through the airport without detection.*  
11

12 4. *The local authorities were alerted to the smuggling ring after Messrs Miller and Claret were  
13 arrested at the Miami International Airport on Sunday 29 April 2018. The men were destined for  
14 the Cayman Islands. Their suitcases were inspected by the Transportation and Security Agency.  
15 The Agency discovered 2.94 kilograms of ganja inside Mr. Claret's suitcase. The ganja was  
16 contained in boxes of gain detergent.*  
17

18 5. *Mr. Claret cooperated with the US authorities. The US authorities shared the information received  
19 from Mr. Claret with Customs and Border Control. ....*  
20

21 6. ....

22  
23 7. *On 14 May 2018, Assistant Director Tina Campbell arrested the defendant on suspicion of  
24 conspiracy to import ganja into the Cayman Islands. Assistant Director Campbell and Senior  
25 Customs Officer Vienie Vernon searched the defendant. Assistant Director Campbell seized two  
26 phones from the defendant-an I Phone 7 plus and a STK R 451.*  
27

28 8. *The defendant's phones were interrogated by RCIPS. The interrogation revealed WhatsApp  
29 conversations between the defendant and Mr. Miller. The conversations were analysed by Miss  
30 Joanne Delaney. Miss Delaney is an intelligence analyst with the RCIPS. Miss Delaney also  
31 analysed communication between Mr. Claret and Mr. Miller contained in the download of Mr.  
32 Claret's phone. She cross referenced her analysis with the defendant's work records and Mr.  
33 Claret's travel history.*  
34



1 9. *The analysis showed that Mr. Claret successfully travelled to the Cayman Islands on five*  
2 *occasions: 21 January 2018, 28 January 2018, 21 February 2018, 21 March 2018, and 5 April*  
3 *2018. The analysis showed that the defendant was on duty at the airport, signed Mr. Claret's*  
4 *customs declaration form and communicated with Mr. Miller to coordinate Mr. Claret's movement*  
5 *through the airport on each occasion.*

6  
7 10. The defendant was arrested on 14 May 2018 and interviewed on 15 May 2018. The defendant was  
8 bailed pending further investigation on the same day. The defendant was charged on 15 September  
9 2021 and first appeared in the Grand Court on 12 November 2021. A trial date was set. However,  
10 on 2 June 2022, the defendant was re-arraigned. She pleaded guilty to the charge on the indictment.

## 11 12 **THE LAW**

13 11. Section 321 of the Penal code provides:

14 *“A person who conspires with another or others to commit any offence or to do any*  
15 *act in any part of the world which if done in the Islands would be an offence*  
16 *punishable with imprisonment and which is an offence in the place where it is*  
17 *proposed to be done commits an offence and is liable, if not other punishment is*  
18 *provided, to imprisonment for ten years, or, if the greatest punishment to which a*  
19 *person convicted of the offence in question is liable is less than imprisonment for*  
20 *ten years, then to imprisonment for such lesser term.”*

21 12. The maximum sentence for importation of ganja is seven (7) years imprisonment. As this sentence  
22 is less than that prescribed under section 321, the maximum sentence for conspiracy to import ganja  
23 is seven (7) years imprisonment.

## 24 25 **THE UK SENTENCING GUIDELINES**

26 13. There are no Cayman Islands Sentencing Guidelines for importation of ganja. The UK's Definitive  
27 Guidelines for Drug Offences provide a useful reference point in determining the seriousness of  
28 the alleged offending, considering varying levels of culpability and harm.

29  
30 14. The Crown submitted that applying the Guidelines for an akin offence in the UK, mindful that the  
31 sentences for such offences are different from the Cayman Islands, **as to culpability**, that the  
32 defendant played a leading role in the enterprise. The Crown submitted that the defendant, as a



1 customs and border control officer, held a position of trust and responsibility. Her task was to  
2 prevent the entry of controlled drugs into the Cayman Islands. She abused this position of trust.

3  
4 15. Counsel for the defendant submitted that the Court should find that the defendant had played at the  
5 highest, a significant role in the enterprise. Counsel argued that the evidence presented by the  
6 Crown does not support the defendant as being the orchestrator of the enterprise. She was not  
7 buying or selling the drugs and there were no links established to show substantial links to others  
8 in a chain. Counsel suggested that the Court may even find that the defendant had a lesser role and  
9 that it may be that her roles was somewhere between lesser and significant.

10  
11 16. **Regarding Harm**, the level of harm is determined by the quantity of drugs. As per the Guidelines  
12 referred to above, there are four categories for ganja. The starting point for Category 1 is 200  
13 kilograms, Category 2 is 40 kilograms, Category 3 is 6 kilograms and category 4, 100 grams. In  
14 this case, the known quantity of ganja is 2.94 kilograms or 6.48 lbs. Prima facie, this quantity of  
15 drugs falls into category 4. However, the Crown invites the Court to consider two factors on this  
16 issue of the level of the quantity of drugs to be considered.

17  
18 17. The Crown submitted that it could be inferred that the amount of ganja caught within the conspiracy  
19 charged was more than 2.94 Kg. This from the fact that the defendant's co-conspirator was found  
20 to have entered the Cayman Islands on at least five occasions during the relevant period of the  
21 conspiracy. It was submitted that the court could infer that on each of those occasions [that the  
22 courier] imported ganja into the Island. Consequently, the ganja seized on 29 April 2018 is not the  
23 full quantity imported under the conspiracy.

24  
25 18. The Crown further invited the Court to consider that the offence of fraudulent evasion of a  
26 prohibition by bringing into or taking out of the UK a controlled drug is analogous to the  
27 importation of a controlled drug under Cayman Law. The UK Guidelines indicate that where the  
28 quantity of drug is significantly larger than the indicative amount for category 4 but below category  
29 3 amounts, reference should be made to category 3 ranges and that this range would prescribe the  
30 starting point. It was argued that even if the court were not to make the inference as outlined at  
31 paragraph 17 above, the 2.94 kg was significantly larger than the 100g at Category 4 but less than  
32 the category 3 threshold of 6 kg.



1 19. Counsel for the defendant did not agree with this approach. Counsel urged the Court not to make  
2 any such inference. Counsel submitted that instead the Court should move to sentence only on  
3 definite evidence before the Court.

4  
5 20. After consideration of the submissions of counsel, the Guidelines, and the facts of this case, I find  
6 that the defendant played a leading role in the enterprise. The defendant, as a serving Customs  
7 Officer and Boarder Control Officer abused her position of trust or responsibility, a factor which  
8 places her within the range of a leading role. The Crown submitted that the defendant was an  
9 important cog in the enterprise, but this Court would describe her as an essential cog in the  
10 enterprise. It is her intimate knowledge of the Customs and Border Control's systems and  
11 procedures that facilitated the seamless entry of the drugs into the jurisdiction. Were it not so, this  
12 conspiracy may not have succeeded for the length of the time that it did. I am mindful of counsel  
13 for the defendant's submissions regarding double counting and I bear them in mind as I consider  
14 the final sentence.

15  
16 21. I find that this Court is entitled to infer that there were other successful importations into the  
17 Cayman Islands as a result of this conspiracy during the period. The facts speak to the courier's  
18 successful entry into the Islands and discussions to facilitate and ensure that such was unobstructed.  
19 It would be disingenuous in the light of the conversations and actions of the defendant and her co-  
20 conspirators to find that they were not referring to planning and ensuring the successful importation  
21 of drugs during this time.

22  
23 22. In any event, the maximum amount that would have been imported during the period, were the  
24 Court to infer that each occasion at least the amount of 2.94 kg was imported, is in the region of  
25 14.74 kg or 32.4 lbs.

26  
27 **THE SOCIAL INQUIRY REPORT**

28  
29 23. The Court had the benefit of a Social Inquiry Report ("SIR") as well as an addendum to that report.  
30 The probation officer who completed the report noted that the defendant described her upbringing  
31 as strict. She graduated from High School with Honours and was in the midst of pursuing her  
32 tertiary education when she became pregnant with her first child. However, the defendant secured  
33 regular employment after the birth of her son and became employed as a Customs Officer in 2016.



1 The present offence was committed after she had been employed with that Department for just over  
2 one year.

3  
4 24. The SIR revealed that after being arrested for the present offence the defendant was suspended  
5 from her employment. During the time between her arrest and this sentence hearing the defendant  
6 pursued and obtained an associate degree in Public Administration.

7  
8 25. The defendant expressed to the probation officer that:

9 *“...she felt guilty whilst committing the offence. She shared, “I couldn’t take it*  
10 *anymore because I knew that it wasn’t right...*  
11 *I regret it every day because I am not that kind of person. I never touched ganja.*  
12 *I have a stupid but kind heart. It wasn’t my intention to gain anything; it was out*  
13 *of genuine concern for [him].”*  
14

15 26. The defendant was assessed as being at medium risk of re-offending. The probation officer’s  
16 conclusion is:

17 *“[Ms. Fisher] appears to appreciate the seriousness of her actions. To Ms. Fisher’s*  
18 *credit, her commitment to mental health counselling and the completion of her*  
19 *studies speaks to her overall inclination toward a prosocial lifestyle. However, M.*  
20 *Fisher’s assertion that she committed the crime out of concern for her friend (party*  
21 *2) suggests some naivety and a deflection of responsibility.”*  
22

23 27. The defendant is also the mother to a younger child who is two years old. The court was also  
24 provided with medical records attesting to the defendant’s younger child having a serious health  
25 issue. The defendant is that child’s caregiver, there being no relationship with the child’s father.

26  
27 **COURT’S CONSIDERATIONS**

28 28. The approach to sentencing in drugs cases is found in the case of *R v Comrie*.<sup>1</sup> The criteria the  
29 Court is required to consider are:

- 30 a) the quantity of ganja;  
31 b) the role played by the offender in the enterprise; and  
32 c) the antecedents of the offender.

33  

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<sup>1</sup> Mitchell Comrie v R SCA 0001/2011 at paragraph 23-27



1 29. For importation of ganja, the tariff is generally four years imprisonment. In *Comrie v R*, Smellie  
2 C.J. stated the usual starting point in cases of importation is 3-4 years. In that case the quantity of  
3 drugs was 50 kgs. The appellant pleaded guilty and he had no previous convictions. The Court  
4 found that he played a secondary role in the importation scheme.<sup>2</sup> The sentence imposed was 3  
5 years' imprisonment.

6  
7 30. In this case the quantity of drugs taken at its highest and with the caveat that this is but inferred  
8 amount is 32.4 lbs. The defendant has no previous convictions. The defendant played a leading  
9 role in the enterprise. The defendant has entered a guilty plea.

10  
11 31. I adopt a starting point of 3 years' custody to account for her role, the custody threshold having  
12 been passed.

13  
14 32. The Crown submitted that there were several aggravating factors to be considered. These the  
15 Crown identified as:

16  
17 a. *The defendant's conduct was sustained. She facilitated Mr. Claret's entry into the Islands over*  
18 *four months. The enterprise would have continued if Messrs Claret and Miller were not*  
19 *intercepted in the US.*

20  
21 b. *the defendant undermined the efficacy of border protection measures by revealing when anti*  
22 *narcotic measures would be deployed at the Airport.*

23  
24 c. *the defendant's actions carries the risk of diminishing the trust of the public in Customs and*  
25 *Border Protection and its officers.*

26  
27 d. *the offending was planned and organized to avoid detection.*

28  
29 33. The potentially mitigating feature identified by the Crown was:

30  
31 a. *the defendant has no previous convictions.*

32  
33 34. Counsel for the defendant urged the Court to find that there were other mitigating factors present.  
34 In addition to the mitigating factor already identified the other mitigating factors are:

35 a) The defendant has demonstrated genuine remorse.

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<sup>2</sup> *ibid*, paragraph 26



1           b) The defendant is the sole or primary carer for dependent relatives – here two young  
2           children.

3  
4   35.     I do not consider that there should be an uplift to the starting point in this case.

5  
6   36.     For the defendant's guilty plea entered after a trial date had been set but before the date of trial, the  
7           defendant will be accorded a 25 per cent reduction in her sentence. This takes the sentence to one  
8           of 27 months imprisonment.

9  
10   37.    The Court has considered the SIR and will accord a further reduction of 3 months for personal  
11          mitigation to take the sentence to 24 months imprisonment.

12  
13   38.    Counsel for the defendant has raised the issue of delay as being a factor to be considered on this  
14          sentence exercise. The defendant was arrested on 14 May 2018 and indicted on 11 November  
15          2021. She was first charged on 15 September 2021.

16  
17   39.    This Court has dealt with the issue of delay in several cases and its impact on sentence. The Court,  
18          in its discretion, can award a further reduction in sentence to take account of the delay. This Court  
19          cannot ignore the significant delay in this case and the effect of such delay on the defendant. She  
20          had this matter hanging over her head for 3 years before she was charged. For that delay the Court  
21          will discount the sentence by 6 months to 18 months imprisonment.

22  
23   40.    As stated above, the custody threshold had been passed. A custodial sentence would be a deterrent  
24          sentence to mark this Court's disapproval of the defendant's actions and her abuse of position,  
25          especially considering the efforts of the officers of Customs and Border Control to seek to counter  
26          the importation of all illegal drugs into this jurisdiction. It is largely their efforts that seek to and  
27          are effectively holding back the scourge of drugs that could infect this small society in significantly  
28          detrimental ways. One only has to think to the usual cases before these courts of illegal importations  
29          of ganja, where ganja in excess of hundreds of pounds are now almost routinely seized from persons  
30          seeking to enter the Cayman Islands.

31  
32   41.    The defendant's actions since the charge are also part of the Court's considerations on sentence.  
33          She has completed a degree programme and has committed no further offences in the interim period  
34          between arrest and sentence. The defendant's young children are another. While this Court is not



1           averse to imposing custodial sentences as warranted, despite a defendant's parental responsibilities,  
2           on defendants who have committed serious crimes, in this case, the Court is also faced with a very  
3           young child who has a serious illness and for whom the defendant is the primary caregiver.

4  
5       42.     In all the circumstances, I consider that the following is the appropriate sentence:

- 6           •     The defendant is sentenced to a term of imprisonment of 18 months. 9 months of this sentence  
7           will be suspended.
- 8  
9           •     The defendant will therefore serve nine months in custody. The suspended portion of the  
10          sentence will begin upon the date of her release from custody for a period of one year.
- 11  
12          •     Any time that the defendant has spent in custody for this offence will be deducted.

13  
14  
15  
16                 Carter J.          

17       **Justice Marlene Carter**  
18       **Acting Judge of the Grand Court**  
19