

**IN THE CROWN COURT AT LINCOLN SITTING IN THE CASTLE**

**R v Rhys Herbert**

Rhys Herbert has pleaded guilty to an Indictment containing 2 Counts :

Count 1 – Fraudulent Evasion of the Importation of Cannabis

Count 2 – Being Concerned in the Supply of Cannabis

The Prosecution and Defence agree that Rhys Herbert imported 3.6 kilograms of cannabis in relation to Count 1 over the course of importations in June and July 2023.

This case listed was listed for a Trial of Issue over 23<sup>rd</sup> and 24<sup>th</sup> December 2024. The issues are

First, over what period was Rhys Herbert engaged in the supply of cannabis;

Second, what quantity of cannabis has come into the possession of Rhys Herbert;

Third, what percentage of cannabis was retained or sold on?; and

Fourth, was cannabis sold for social purposes or profit on a commercial basis?

The Prosecution submit that Mr Herbert sold in the region of 60 kilograms of cannabis on a commercial basis.

Mr Herbert submits that he had between 15 to 20 kilograms of cannabis in his possession and that he sold about 5 kilograms but that little of it was sold for profit and, that which was, was sold at about £400 per pound.

It is agreed on Mr Herbert's behalf that he falls to be sentenced at the top of Significant role – albeit there is a difference between the Prosecution, who submit that he falls within Category 2, and Mr Herbert, who submits that he falls within Category 3.

I have read the documents, which have been uploaded onto the DCS and heard evidence from DC Saville, Jon Privett, the Prosecution drugs expert, and Rhys Herbert.

The Prosecution submit Mr Herbert sold in the region of 60 kilograms made up in the following way

3.6 kilograms – agreed importation

9 kilograms – requested from Rods in January 2023

18 kilograms ‘in transit’

9.9 kilograms received and sold every week in 6<sup>th</sup> January 2023 over a minimum of 3 weeks.

The Prosecution rely upon the following

A quantity of about 20 Mylar bags, vacuum sealer, bags and 2 sets of weighing scales being found;

Conversations between Mr Herbert and Keeyyyyz about there being ‘40 in the air now’ on 17<sup>th</sup> January 2023

Conversations between Mr Herbert and Steve about obtaining items with Steve saying that he provides pallets – 300 minimum.

Conversation between Mr Herbert and Slapstarr in early January 2023 about purchasing 6,000 bags for £2,000 plus VAT

Conversations between Mr Herbert and K2 in January 2023 about buying a strain

Conversations between Mr Herbert and Cali Plug in March 2023 about a menu of cannabis strains

Conversations between Mr Herbert and Rods on 6<sup>th</sup> January 2023 about taking possession of 19 at 2,700, 10<sup>th</sup> January 2023 about Mr Herbert asking for ‘midi’, 15<sup>th</sup> January 2023 about Rods sending someone, 25<sup>th</sup> January 2023 Rods asking if Mr Herbert had ‘tops’, 4<sup>th</sup> February 2023 with Rod saying that he had them 1950, 7<sup>th</sup> February 2023 with Mr Herbert saying that he had 50 of them at 18 bills

Conversations in January 2023 between Mr Herbert and an unknown person in which Mr Herberts sends a video of a suitcase with packages within and labels

The evidence of Jon Privett about the transcript at I49

“Member, I shot them, I get them in pounds and let them go as boxes so man has to add a few z’s on, top. You get it? I sell them for four bags but if you’re saying ‘yo you sell your pounds at 18 bills’, if I was to get my lows off you landed that means, I don’t get lows landed, that’s the only thing. I don’t shot a lot of lows. Cos I have to get them over init? But if I was gonna buy loads off you it wouldn’t make sense cos 18 bills 18 bills that’s 36 bills then I gotta take out couple of z’s out of a next pound to put on top to make the box to shot at 4 bags. That makes no sense”

Selling at ‘I shot them at 3 - 32 bills all day’

I65 about Mr Herbert not being interested in ounces, by inference only interested in pounds

Mr Herbert has given evidence that he has bought about 30 pounds of cannabis including the amount which has been imported. He relies upon

The evidence of Mr Privett that

the messages at J256 are consistent with drugs being returned to Rods;

There being no conclusive evidence of deals apart from Rods;

There being no supporting evidence for supply, such as adverts, communication or tick lists although the absence of these items does not prove the opposite; and

Drug dealers do sometimes exaggerate.

His own evidence that

He used cannabis since being aged 12 as part of his culture as a Rastafarian and, more recently, used the cannabis to reduce the pain from severe headaches – in cross examination, Mr Herbert told the Court that he used between 14 and 28 grams a day and that 7 or 8 pounds of cannabis would last a month for everyone.

He is an acclaimed rap artist, who has earned about £3,000,000 and so can afford to buy cannabis in bulk in a way that many cannot;

He purchased the imported amount of 3.6 kilograms, the 8.6 kilograms from 'Rods' – never previously bought that amount - and 1 pound from Keyyyyyz;

He bought 30 pounds of which 16 pounds was for him and friends and entourage and 14 pounds was sold within the environment of the music business

He returned 12 or 13 pounds to 'Rods' because it was poor quality and swapped it for better – the purchase from and return to 'Rods' was carried out by sending someone else and the cannabis, which was offered on 19<sup>th</sup> January 2023, was not obtained;

He has a large entourage and sometimes works in a collaboration such that there are many for whom to share cannabis with;

He has cannabis bags for use in his videos – many of the bags will have been taken by friends, actors and production team rather than used to package and sell cannabis;

The money in the videos is fake rather than real;

He has sold around 14 pounds. In cross examination, Mr Herbert told the Court that if he bought 2 pounds of cannabis, he would keep 1 pound and sell the other to cover his losses 'that's how you stay rich'. Mr Herbert explained

that he had sold pounds at cost price 'not often' – about 4 or 5 times and at the studio 3 or 4 times so about 7 – 9 pounds in total;

Most of what he said online was bravado including telling Keyyyz that he had lied about saying 'I got 40 in the air' and adopted words used by Rods, 'Live. Life, love' about getting 22 per week and making 10 boxes out of 22. This was reflected in lies, which he told in his music;

Received the number for 'Steve' from Slapstar and asked about pallets, which meant a lot of cannabis.

The conversation with Slapstar was about obtaining Mylar bags for music videos and wanted to buy 2,000 to be on the safe side. Mr Herbert denied using the Mylar bags to sell cannabis other than on one occasion when he sold 2 pounds making £600-800 profit. Mr Herbert said that Slapstar may have known that he was interested in cannabis from a phone call, he did not know why Slapstar would tell him that 'Can send invoice as promotional bags or stickers or something so you can run as an expense / claim VAT';

The conversation with K2 didn't go anywhere but, in any event, was a lie when he said that he had landed 'some' and that he gained reputation by pretending to a random person that he was a drug dealer;

Cali plug was someone he met outside the recording studio and wanted to buy pounds rather than ounces because it was cheaper and less risky to do that but didn't buy anything from him;

Rawws was someone he wanted to come across to as experienced to appear bigger than he was but he had no dealings with Rawws because of the price.

## **Law**

I remind myself that the burden remains on the Prosecution to make me sure that the amount of cannabis involved was in excess of what Mr Herbert claims and that he was engaged in the commercial sale of cannabis other than on the small amount accepted by Mr Herbert.

I give myself a 'Lucas style' direction about the claims made by Mr Herbert during his messaging.

## **Analysis**

The somewhat bizarre aspect to this case, which troubled me when I read the papers in this case, is why a well-known and successful music artiste would supply drugs for profit to other people.

This was even more difficult to comprehend when I was told that, in Mr Herbert's relatively short career he had earned about £3,000,000. As the evidence unfolded, it became clear that this was not, in fact, a concern. Mr Herbert made it clear in evidence that he wanted to sell cannabis to cover his losses and explained that was how you stayed rich. The answer to my preliminary concern was, if he were selling drugs for profit, 'plain greed'.

I do not accept the evidence of Mr Herbert for the following reasons :

First, the figures simply don't add up. Mr Herbert claims that 7 or 8 pounds of cannabis would last him and his associates for 1 month. On this account, over a 7 month period from January 2023 to July 2023, taking a middle figure of 7.5 pounds, Mr Herbert would require some 52.5 pounds of cannabis. If I reduce this amount by two months or so to take account of the time, which Mr Herbert was out of the country during this period, he still requires 37.5 pounds of cannabis for his and friends consumption plus a similar amount to sell on, that is to say 75 pounds or 34 kilograms;

Second, the purchase of 6,000 Mylar bags does not make any sense if there were not a substantial amount of drugs to be sold for the following reasons :

If, and I accept that some, Mylar bags were used in music videos there would be no need at all to buy 6,000 bags when the minimum purchase was 1,000;

Why would Mr Herbert, given his large entourage, become personally involved in negotiating for and physically collecting the bags from Derby if there was nothing untoward about the purchase; and

The message from Slapstar 'Can send invoice as promotional bags or stickers or something so you can run as an expense / claim VAT' only makes sense if it relates to something unlawful. This fits in, bizarre though it may appear for someone as wealthy as Mr Herbert appears to be, with Mr Herbert's desire to stay rich.

Third, the claims of Mr Herbert to be bigging himself up as cannabis dealer for reputation reasons doesn't stand up to scrutiny. None of the people to whom Mr Herbert is 'bigging himself up' to appear to have any significant importance to the life and/or career of Mr Herbert and achieve anything.

I am satisfied so that I am sure that

First, Mr Herbert was involved in the supply of cannabis over a period of at least 7 months from about January 2023 to July 2023;

Second, the amount of cannabis, which came into the possession of Mr Herbert was at least 50.65 kilograms, made up from the admitted imported 3.6 kilograms, 8.6

kilograms from 'Rods', one pound from Keyyyyz and a further 18 kilograms, which Mr Herbert claimed to Keyyyyz to have 'in the air', and a further 20 kilograms, which was claimed to be being used to 'Live, Life, Love'. I suspect that the reality is that the amount involved was much higher but I have restricted my findings to that which I am sure about;

Third, with some reservations, I am prepared to accept that Mr Herbert was himself using 28 grams per week over 5 months (606 grams) and that some drugs were shared with others. Even, considering that there were friends in Lincoln with him at some times, music engineers when in the studio and a management team, it is difficult to see, making every conceivable allowance, how more than 5 kilograms could be consumed by those people I am satisfied so that I am sure that at least 45 kilograms was sold on;

Fourth, the cannabis, which was sold on, was for a commercial profit.

## **Guidelines**

Plainly, your offending is so serious that there must be a sentence of imprisonment.

I remind myself that I must pass the least possible sentence, which I can.

You will serve up to one half of your sentence in custody. You will serve the remainder on licence. You must keep to the terms of your licence and commit no further offences or you will be liable to be recalled and you may then serve the rest of your sentence in custody.

I have seen letters from your mother and aunt, who speak highly of you.

**The importation of controlled drugs guidelines apply.**

## **Role**

It is agreed that you had a significant role on the basis that you expected significant financial advantage.

## **Harm**

The amount imported is 3.6 kilograms, which is below the indicative amount of 6 kilograms for Category 3.

The starting point for Significant role Category 3 is 2 years with a range of 18 months' – 3 years'

The amount involved is lower so I shall adjust your starting point to 20 months'.

**The Supplying controlled drugs guidelines apply.**

**Role**

You have a significant role on the basis that you had an expectation of significant financial advantage and that you involved others in the operation, for example, to return and collect cannabis from 'Rods'.

**Harm**

I am satisfied that you were involved in supplying at least 45 kilograms.

The indicative amount for Category 2 is 40 kilograms.

It follows that you fall within Category 2.

The starting point for Category 2 Significant role is 4 years with a range of 2 years' 6 months – 5 years'.

The twin factors in the Significant role places you towards the upper end of Significant role and the amount involved is slightly in excess of the indicative amount.

Accordingly, I consider that starting point of 4 years' and 6 months is appropriate.

**Aggravating factors**

You have convictions for possession of bladed articles, offensive weapon, theft, and damage as a youth including sentences of detention and violent disorder, as an adult, resulting in a sentence of 30 months in 2020.

## **Mitigating factors**

You have no convictions in relation to drugs matters let alone the supply of drugs.

You are a working man of considerable success as a recording artiste and a writer of music.

On balance, I consider that the aggravating and mitigating factors balance each other out.

## **Plea**

You entered your guilty pleas at the PTPH. Accordingly, you would be entitled to 25% credit for your plea. This would reduce the sentences to 15 months for the importation and 3 years and 4 months' for the being concerned in the supply of cannabis.

However, the Reduction in sentence for guilty plea guideline provide that were there is a trial of issue then the reduction should be halved.

Accordingly, following the trial of issue, your sentence for being concerned in the supply of cannabis reduces to 3 years' and 11 months' giving you the benefit of rounding down.

## **Totality**

I have consider the guideline on Totality and the need to ensure that the sentence is just and proportionate. I consider that the sentences should be concurrent because they arise out of the same offending.

Accordingly, the sentences are

Count 1 15 months'

Count 2 3 years' and 11 months'

**His Honour Judge Hirst**

**31<sup>st</sup> January 2025**



