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V

ROMAN LE, YIHAO FENG and DAVID QAYUMI

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SENTENCE REMARKS

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1. I am to sentence all 3 defendants for their respective role in a conspiracy to produce cannabis. Mr Feng is to be sentenced additionally for count 2 which is a charge of possessing criminal property, namely cash to the sum of £47,325.
2. For sentence today is Mr Feng and Mr Qayumi. Mr Le has attended court proceedings but most unfortunately within the last 24 hours his barrister has become extremely unwell such that he has been hospitalised. That same barrister was Mr Le's trial counsel and so accordingly it would be unfair to continue and sentence Mr Le today because his counsel is best placed to deal with his case and make any relevant submissions. Mr Le will be sentenced by me at a later date. I have decided it would be in the interests of justice to sentence the other 2 defendants in the absence of Mr Le so as to not further delay proceedings for them. Indeed no counsel argues the contrary.

General

3. I start by mentioning relevant factors that are applicable to all and then I shall deal with each individual defendant's case, mitigation and finally sentence.
4. The facts of this case are well known to all involved and there has been an extensive opening by Mr Brocklehurst on behalf of the prosecution. There is also an available prosecution sentencing note on the digital case system. It is, therefore, sufficient for me to deal with the facts in relatively short order.
5. Back in 2019 and 2020 a criminal conspiracy was in operation involving all of you where properties of both residential and commercial status were obtained and essentially used for the growing and production of cannabis. It involved a number of properties and if taken at the higher amounts, according to the drug expert, the conspiracy would have produced cannabis at a street level in the region of £2.4m and at a wholesale level of around £1.1m.

6. The set up involved cannabis farms (sometimes referred to as 'grows') with extensive growing facilities including the by-passing of electricity, heavy ducting and fans systems in operation, hydroponics as well as sophisticated lighting. All of this was to ensure the quickest and most efficient growing of the illegal drugs in order to shorten the time frame and maximise the yield of sellable cannabis.
7. Present at many of the properties were illegal immigrants who were used to garden the crops. That is an immediate example of how these types of operation fund other form of criminal activity. It is commonplace for some people who act as gardeners to be forced to do such work having to repay debts often owed to criminal organisations.
8. In some of the buildings the cannabis grows would at times be hidden, out of sight, behind the pretence that the building may be being refurbished or that some sort of building work was being done. This would create the façade to the onlooker that nothing illegal was taking place when, in fact, inside was an extensive illegal cannabis set up.
9. Mr Le was one of the leading lights in this criminal conspiracy and he would organise for a number of the properties to be set up. He would use his construction and building background – if that is a fair way of describing it – as a cover to hide what was really taking place behind the closed doors.
10. Mr Le would obtain buildings that would be suitable for large commercial set ups to grow cannabis. He would use limited companies to purchase the buildings or their leases. These companies were essentially him although he would name others as directors. That was, on all the evidence I heard at trial, a front to try and distance himself from the operation.
11. Mr Feng would often be involved in the delivery of equipment which would be used for the set ups of the grows and was involved in the cleaning of a property or arranging for it to be cleaned. He would also be more operational including using his name to deal with things such as utilities on occasion or paying for the same albeit even if he made no profit from that particular aspect.
12. Mr Qayumi was involved in the provision of the residential properties in the conspiracy. He was heavily linked to Roman Le and he would also use false tenancies or limited companies in order to try and pretend the purchases or tenancies were legitimate when they were not. Although he was involved with the smaller properties in terms of physical size they would still involve the employment of illegal immigrants to garden the cannabis.
13. As the jury heard in the trial of Mr Le this was, on any estimation, overall a large scale industrial operation which generated commercial amounts of cannabis. It is a criminal conspiracy. You were each lending support to the

other. This is a factor I am entitled to take into account as recognised by Lord Justice Treacy in R v Khan and others (2014) 1 Cr App R (S) 10.

14. In relation to the Sentencing Council definitive guideline the correct approach is to look at the overall position of the conspiracy in terms of harm. In my judgement this conspiracy falls into category 1. This conspiracy produced or could produce significant quantities of cannabis as described in Category 2 very easily but when assessing the position overall it was a conspiracy that was capable of producing industrial quantities for commercial use. As to your individual roles and knowledge of the overall position within this conspiracy I shall deal with those later.
15. Some aggravating factors apply generally in this case including the use of premises by unlawful access to electricity as well as the fact that the equipment found shows this was an ongoing large scale operation. The evidence of the drug expert was clear that previous grows in some properties had taken place.
16. Delay is an important factor in this case and applicable to all defendants. I look at the time between the offending in 2019/2020 and now in 2025 when I am sentencing you. The important factor to note when there is delay is always if there has been any offending in between. When the answer to that is no it should properly reduce any term to be imposed and I have taken this into account in relation to each defendant.
17. It is often said in these courts by defendants that cannabis is a less serious drug. Whatever an individual's view may be cannabis is classified as a Class B drug. It is regularly forgotten or, by those involved chosen to ignore, that the production and onward movement of illegal drugs is not a secular activity. It is linked to other crime and criminal funding. It has negative social consequences as well as often personal ones.

### Individual Roles

#### Mr Roman Le

18. Having presided over the trial I am well placed to make certain findings in relation to Mr Le. However, as Mr Le is not being sentenced today, it would be inappropriate to make any final decisions in relation to the Sentencing Council Guideline in the absence of his counsel's submissions.

Mr Yihao Feng

19. You are 29 years of age and prior to this had no previous convictions. This is a positive feature. Mr Feng you pleaded guilty on a written basis of plea. This is uploaded to and is available on the digital case system. However it has been slightly expanded orally today by your counsel. Having heard that I did not feel it necessary for evidence to be given as I heard the trial and am well placed to make findings about what you say. You accept that you would be involved in dropping off the important equipment used for the set up even if you didn't yourself go in and do the physical work. You knew in certain properties that cannabis was being grown you accept.
20. In relation to credit you pleaded late albeit indicating in the March you would plead. I assess that a reduction in the region of 15% is fair.
21. In terms of culpability I place you into a high end lesser role. For some of what you did you were under direction although you did not become involved through pressure or coercion and you in no way did what you did through naivety. I understand the prosecution point that what you did may not properly be described as limited but I also agree you had no real influence on anyone else in the chain although you certainly were connected to them. I do not accept you had no or little awareness of the scale of what was going on but you did not organise properties to be found or obtained in the same way as others and looking in the round I am satisfied you are better placed in that category. In saying that you were a trusted courier of criminal cash. The evidence showed you arranged with Mr Le to meet at Wharton Street and there he received cash in a bag. The jury, no doubt, did not accept his story of what the cash was for and I conclude it was for a share in the profits of the conspiracy. As such you couriered this cash to him. I am unable on the evidence to be sure of who gave you that money. This does though tell me that others were involved above and beyond the three of you named defendants. You played a significant part in the conspiracy and without you it would not have been possible in many regards. However that does not always equate with having a significant role on the guideline. As I have said I find on balance you are best placed in the higher end of lesser role.
22. Whilst it is correct that you may well have been hands on in some respects - for example in clearing out or helping to clear out one of the particular properties at Southall Crescent - that in no way places you into the lower end of a lesser role. You were linked by your presence at various properties which were part of the conspiracy. Also enquiries have shown you had no legitimate form of income.
23. A lesser role for Category 1 has a starting point of 3 years and a range of up to 5 years.

24. You had been stopped in September 2020 when the criminal cash was found and yet you carried on as part of this criminal enterprise. It did not deter you.
25. I have further considered in your case the guideline on money laundering. The harm is category 5 due to the amount involved. Your culpability is medium. I do not accept you were just a courier or asked only to perform that role. In addition I must look at any further harm which may apply considering the underlying offence was illegal drugs. An upward adjustment properly applies.
26. Notwithstanding the above I have had measured regard to the overarching guideline also on totality. I have decided the most just approach in your case is to impose a term on count 1 and make count 2 concurrent. That will mean, however, the term for count 1 will be upwardly adjusted to reflect this approach although it will be nothing like if I had made the sentences consecutive.
27. I have taken into account the submissions of Mr Fullerton and also read with care the defence sentencing note submitted.
28. I have read with care the Pre-Sentence Report prepared by Mr Chambers. You are said to belong to a close knit family with whom you have regular contact and you have no dependants.
29. You say to the author that you became involved in this for money – you say initially during the covid pandemic. I am in no doubt the reason for the involvement of all the defendants was financial. You go on to say you did not gain financially from what you were doing. I reject that. That makes no sense at all to me looking at the evidence overall.
30. You say to the author of the report that you acted out of naivety. I reject that. You were fully aware of what was going on and naivety played no part at all in my judgement. I take into account that you may well have made positive changes to your life since including gaining employment and also as the report mentions you have deficits in consequential thinking but this offending is serious and crosses the custody threshold easily and indeed by some margin.

Mr David Qayumi

31. You are 36 years of age and have no previous convictions and this is a positive feature in your case.
32. You pleaded guilty late. However, in your case, I accept that this was after a legal argument had been made. I take the view that the legal argument was properly advanced and in the circumstances it would have been unreasonable

to expect you to plead guilty before I gave a ruling on that argument. In saying that I note the contents of the defence statement submitted as well as the evidence you gave at the abuse of process hearing. According to the sending sheet there was no indication of guilt in any way at all at the lower court and so I do not agree that 1/3 credit is applicable but do feel 25% is fair.

33. I have taken a number of factors into account in reaching the correct sentence in your case. In relation to culpability on the guideline you fall into a significant role. You were in no way just a person doing what he was told. You were able to arrange for properties to be obtained and were significantly involved in that. I am satisfied as I have already said you did this for significant financial gain. You were aware of the scale of the operation – certainly of the properties you were directly involved in. For a person in a significant role for Category 1 there is a starting point, before further adjustment, of 5 ½ years and a range of 5 to 7 years. It is important that I assess your role within the conspiracy. You are on the evidence not linked to some of the larger grows. This is still a Category 1 conspiracy but I will make a downward adjustment to reflect this.
34. I have read the defence sentencing note produced by your counsel as well as had regard to the submissions of Mr Waidhoffer. He invites me to impose a term that does not require immediate incarceration. That is, with respect to him, not realistic.
35. You were on an electronically monitored tag between February 2022 and July 2022 which totals 148 days for which 74 days are credited.
36. I have read with care the report by Dr Cumming. Indeed it was the court who ordered the report. I have read all the documents on the digital case system including the addendum from May this year. You have a delusional disorder and I heard a great deal of evidence about this as you know. Dr Cummings says that this existed at the time of the offending although it would be reasonable to conclude this did not contribute to the offending. I gave reasons for my findings on this subject at a previous hearing and bearing in mind those findings and what I know further I am absolutely satisfied that your culpability is not reduced by the disorder you have.
38. I bear in mind you have a delusional disorder but the Sentencing Council Guideline on sentencing people with Mental Health Disorders makes it clear that there must be a causal link between the offending and any condition a person has and that it will not necessarily have an impact upon sentencing. I was asked to adjourn your case further in order to obtain a Pre-Sentence report in relation to a Mental Health Treatment Assessment. I am aware of section 232 of the Sentencing Act 2020 but I declined to do so because I have before me a number of reports including a recent update. Your disorder, that I accept existed back then and perhaps even more so now, did not

prevent you from arranging for properties, liaising with people or organisations and being actively involved in the setting up of cannabis farms. I recognise the treatment you have had for your disorders as highlighted by Mr Waidhofer but your ability to exercise appropriate judgement was unaffected by your disorder in my finding and you knew what you were doing and the consequences of your actions.

### SENTENCES

39. There will be a statutory charge in each of your cases. An order will be drawn up in the appropriate sum.
40. The prosecution are not seeking postponement for a Proceeds of Crime Act investigation. There will, therefore, be forfeiture and destruction of all the relevant material linked to the offending. That will wait though until the finalisation of Mr Le's sentence. In your case, Mr Feng, deprivation of the cash seized will apply now.

#### Mr Yihao Feng

41. Stand up please. For count 2 the least sentence after a contested trial would have been one in the region of 16 months imprisonment. I reduce that for credit for your guilty plea and the term is one of 13 months . As I have taken this role you played into account also for count 1 this will be concurrent to reflect totality and to ensure there is no double sentencing.
42. For count 1 the least term I would have imposed after a trial ordinarily would have been 4 years and 9 months. I feel the delay is significant in this case and reduce that to one of 4 years. I must give you credit for your plea and that, in fact, is a little more than 15% and so the term I impose is one of 38 months or 3 years and 2 months imprisonment. That sentence cannot be suspended in law. This will be served immediately and you will serve the appropriate custodial term and then be released on licence. If you commit any offence during your licence period you may be returned to serve the remainder of the custodial period.

Mr David Qayumi

43. Stand up please. Count 3 will lie on the file not to be proceeded with without permission of this court or the Criminal Division of the Court of Appeal. For the conspiracy the least term I would have imposed after a contested trial is one of 5 years and 3 months. I reduce that for the delay to one of 4 years and 6 months. I give you 25% credit for your guilty plea and the term I impose is one of 40 months or 3 years and 4 months less 74 days on tagged curfew. That term cannot be suspended in law and so you will serve the appropriate custodial element and then be released on licence. If you offend during the currency of the licence you may be returned to serve the remainder of the custodial term.

HHJ Dean Kershaw

July 4<sup>th</sup> 2025