



In The Supreme Court of Bermuda
CRIMINAL JURISDICTION
2025: No. 11

B E T W E E N:

THE KING

-v-

TY LAWES

Defendant

Appearances: **Ms Khadija Beddeau, Senior Crown Counsel, for the Prosecution**
 Mr Mark Pettingill, Chancery Legal Ltd, for the Defendant

Date of Sentencing: **7th October 2026**

SENTENCING DECISION

Importation of a controlled drug – Offence committed when defendant was under 18

Richards J:

1. This case concerns an importation of controlled drugs via the L.F. Wade International Airport. In many respects the offence is similar to most importations effected by that route: the Defendant arrived in Bermuda on BA flight 159 on 20th July 2023. Cannabis resin was concealed within items contained within his baggage and was discovered by customs officers during a secondary inspection triggered by a canine alert.
2. The striking features of this case are:

- (i) the very large quantity of cannabis resin involved (16,855.4 grams with a street value of up to \$3,371,080);
- (ii) the Defendant's age at the time of the offence (17); and
- (iii) the amount of time between arrest and charge (he was not placed in court until 25th February 2025).

The first of these is an aggravating feature and the other two are mitigating features.

3. The Prosecution have invited me to adopt the revised sentencing practice set out by Wolffe J in his sentencing decision in *R v Alexta Gill*¹, wherein His Lordship said that: “...*the starting point for the importation of large amounts of cannabis i.e. amounts that have a street value of over \$200,000, should be 12 years’ imprisonment*”. I feel bound to observe that, even without doing so, I would conclude that, if this offence had been committed by an adult, a much higher starting point would have been justified, even on the sentencing practice that pertained before *Gill*. As I observed in *Chandra Kota*², the sentence imposed on *Radcliffe Brown*³ in 2024 (in respect of an offence committed on 13th March 2023) implies that a person convicted after trial of importing \$1.9m of cannabis would then have received in excess of 13 years’ imprisonment. The value of the drugs in this case was much greater – over \$3m. It seems to me, therefore, that even without reference to *Gill*, this case would likely call for a sentence in the range of 15 – 18 years’ imprisonment in the case of an adult convicted after trial.
4. However, it cannot be overlooked that Mr Lawes was not an adult at the time of this offence. Having been born on 25th August 2005, he turned 18 on 25th August 2023; almost exactly 5 weeks after this offence was committed. Had he been placed before the courts within that 5-week period, this matter would, by virtue of section 9 of the Young Offenders Act 1950 (“**the 1950 Act**”), have proceeded in a Family Court. Assuming that he had, before those proceedings concluded, become an adult, that court would, I think, have had the power to

¹ [2026] SC (Bda) 5 cri

² [2025] SC (Bda) 51 cri

³ Indictment 15 of 2023

send him either directly to this court or to the adult Magistrates' Court (who might then have sent him here) for sentencing⁴. However, it would not have been bound to do so.

5. Before me Mr Pettingill has placed considerable reliance on section 6 of the 1950 Act:

“6 Restriction on imprisonment

- (1) No court shall impose imprisonment on a juvenile offender.*
- (2) No court shall impose imprisonment on a child (though not a juvenile offender) unless the court is of the opinion that no other way of dealing with him is appropriate; and for the purpose of determining whether any other way of dealing with any such child is appropriate the court shall obtain information relevant to the circumstances of the offence of which he has been convicted and such information as can with reasonable expedition be made available to the court relevant to his character, environment and antecedents and to his mental and physical condition, and the court shall take into account any information so obtained and any other information before the court which is relevant to the matters aforesaid⁵.*
- (3) Where a court of summary jurisdiction imposes imprisonment on a child (though not a juvenile offender) the court shall state the reason for its opinion that no other way of dealing with him is appropriate and shall record the reason in the judgment of the court and in the record book required to be kept under section 83 of the Criminal Jurisdiction and Procedure Act 2015.”*

6. This section does not prohibit the imposition of a sentence of imprisonment on a child. It prohibits the imposition of a sentence of imprisonment on a “juvenile offender” (a child under the age of 16 years – see section 2(1)). A sentence of imprisonment may be imposed on a “young person” (i.e. a child aged 16 or 17 – see section 2(1)), provided that the court is satisfied that *“no other way of dealing with him is appropriate”*. In addition to imprisonment, any Family Court dealing with Mr Lawes as a young person would have had

⁴ See section 77 of the 1950 Act and sections 43 and 49 of the Criminal Jurisdiction and Procedure Act 2015

⁵ No pre-sentence report was sought by either counsel in this case. Nevertheless, I seriously considered ordering one, but ultimately did not do so.

at its disposal the various options provided for in Part III of the 1950 Act. I do not have those options at my disposal because he is no longer a young person and indeed he ceased to be one before these proceedings were commenced.

7. In my judgment there is an air of unreality to any suggestion that Mr Lawes ought to have been placed in court before his 18th birthday. Matters such as this do require some investigation⁶, including analysis of the drugs, potential forensic testing and/or interrogation of seized electronic devices. There is no way of knowing, until that is done, whether or not it will yield any useful evidence (it does not appear to have done so in this case). In cases involving non-resident Defendants (who may be unable to support themselves in Bermuda), I have noted that the authorities are making a commendable effort to expedite those inquiries, so that they may be placed in court rapidly, but I do not consider that it was incumbent on them to do that in Mr Lawes' case. That said, it is regrettable that he was not placed in court until 25th February 2025 and so some 19 months after his arrest⁷. Even if it had been possible to place Mr Lawes before the courts within what I consider would have been a reasonable period of time (i.e. 6-12 months from arrest), he would have been an adult by the time that occurred. The information was, therefore, properly laid before the adult Magistrates' Court and properly sent here for trial pursuant to the Director of Public Prosecution's certificate under section 450 of the Criminal Code.
8. I have not been referred to any established local guidance on how to approach sentencing a person for an offence of this seriousness who was a child at the time the offence was committed. Nor am I aware of any. Happily, it does not seem as though the Family Court is seeing many offences of this type committed by juvenile offenders or young persons.
9. The Prosecution have invited me to take a starting point of 12 years' imprisonment (based on Gill), and discount it by a third for the guilty plea. The Defence say that a much shorter

⁶ Not least because offences like this will inevitably involve persons besides the courier and I have no doubt that, if they could have ascertained who got a child to bring these drugs here, the authorities would quite rightly have been keen to take action against them.

⁷ Despite the analysis of the drugs being completed by 22nd December 2023 and the most recent piece of evidence contained within the Record being dated 11th September 2024.

(and possibly suspended or partially suspended) sentence would be appropriate. They do not accept that any further time in custody is warranted. I do not agree with either approach.

10. I have referred to the guidance on *Sentencing Children and Young People* published by the Sentencing Council of England and Wales⁸. That guidance has a section dealing specifically with “*Crossing a significant age threshold between commission of offence and sentence*”. It provides as follows (emphasis added):

*“6.1 There will be occasions when an increase in the age of a child or young person will result in the maximum sentence on the date of the finding of guilt being greater than that available on the date on which the offence was committed (primarily turning 12, 15 or 18 years old)”*⁹.

*6.2 In such situations **the court should take as its starting point the sentence likely to have been imposed on the date at which the offence was committed.** This includes young people who attain the age of 18 between the commission and the finding of guilt of the offence but when this occurs the purpose of sentencing adult offenders has to be taken into account...*¹⁰.

*6.3 When any significant age threshold is passed **it will rarely be appropriate that a more severe sentence than the maximum that the court could have imposed at the time the offence was committed should be imposed. However, a sentence at or close to that maximum may be appropriate.**”*

11. This guidance make sense to me. I do not understand it to rest on principles that are unique to English law or to be inconsistent with any principles of Bermuda law. I have, therefore, decided to follow it in this case.

⁸ <https://sentencingcouncil.org.uk/guidelines/sentencing-children-and-young-people/>

⁹ Here the equivalent thresholds are 16 and 18 years old.

¹⁰ The relevant considerations are similar to those listed in section 53 of the Criminal Code, to which I have had regard.

12. As a court of summary jurisdiction, the maximum sentence that a Family Court could have imposed on Mr Lawes at the time of the commission of this offence (assuming that it did not consider it appropriate to deal with him in any other way) would have been ten years' imprisonment (and/or a fine in accordance with section 27(1)(b) of the Misuse of Drugs Act 1972). It seems to me that, given the very large quantity of cannabis resin involved in this case, a sentence close to that maximum would have been appropriate in the event of conviction after trial. In my judgment 9 years' imprisonment would have been appropriate.
13. The Defendant's plea could have been entered earlier than it was. He first appeared before this Court on 1st April 2025, but did not enter a guilty plea until 27th July 2026, by which time a trial date had already been set. I still think it appropriate to afford him substantial credit for his guilty plea, but I do not think that that credit alone merits a full third discount (I have in mind a discount of approximately 20%).
14. I will, however, further discount the sentence to take account of the difference between when I think this matter ought reasonably to have been placed in court and when it was. That delay was not great, but I think even a short delay is more significant in the case of such a young man. The reality is that the 21-year-old who appears today will inevitably be a rather different person from the 17-year-old who committed this offence (I have in mind a discount of approximately 10%).
15. I have noted the Defendant's lack of previous convictions, but as has been observed before (including by me in *Kota*) that cannot be a compelling mitigating feature in cases like this; such persons are almost invariably selected as drug couriers because they are less likely to arouse the interest of customs authorities.
16. Taking account of all the circumstances of this case, the least sentence that I consider I can properly impose upon Mr Lawes is one of 6 years' imprisonment. That sentence is too long for me lawfully to suspend any portion of it (though not by much). If I would have done so but for the terms of section 70K(1) of the Criminal Code, I may have considered shortening it further in order to enable me to suspend it or a portion of it. However, I do not consider

that suspension is appropriate. The sentence I am imposing on Mr Lawes is already much shorter than he would have received if he had committed this offence as an adult. That sentence would certainly have been in excess of 10 years' imprisonment, even on a guilty plea, and I consider that it is important to avoid any double accounting in terms of both the aggravating and mitigating features.

Sentence

6 years' imprisonment

Time spent in custody as a result of the offence to count towards the sentence.

Dated this 7th day of **October 2026**


THE HONOURABLE MR JUSTICE ALAN RICHARDS
PUISNE JUDGE