



IN THE MAGISTRATES COURT OF THE FALKLAND ISLANDS

MC/CRIM/02/03/04/26

Trial dates: 20th and 21st May 2026

Judgment was given on 21st May 2026

Before

HIS HONOUR JUDGE MALCOLM SIMMONS

BETWEEN:

REX

V

BRAYAN FRANCISCO ROMERO VARELA

MR. STUART WALKER, Senior Crown Counsel, appeared for the Prosecution

MR. PHIL AXON appeared for the defendant

Throughout the trial the defendant was assisted by a translator

JUDGMENT

1. The defendant stood trial on one count, that between the 23rd day of February 2025 and the 14th day of March 2025, together with Ioan Roberts and Marco Leyton, in relation to a class A controlled drug, namely tetrahydrocannabinol (THC), a cannabinol derivative, was knowingly concerned in the fraudulent evasion of the prohibition on importation imposed by section 3(1) of the Misuse of Drugs Ordinance 1987, an offence under section 43(3) of the Customs Ordinance 2003.

2. On 11th February 2026, Ioan Roberts entered a guilty plea to the charge. Marco Leyton entered a guilty plea on 27th March 2026.

Directions

3. The burden is on the Prosecution to prove that the Defendant is guilty. The Defendant does not need to prove anything. The Defendant does not need to prove that he is innocent. The Prosecution will only succeed in proving that the Defendant is guilty if I am sure of the Defendant's guilt. If I am not sure, then I must return a 'not guilty' verdict.
4. In this case the defendant has chosen to give evidence. He was not obliged to do so but chose to do so. In making that decision, he does not take upon himself any burden to prove his case. He still does not have to prove anything. The burden of proof rests squarely upon the prosecution from start to finish.
5. I do not have to decide every point that has been raised in this case. I am entitled to draw inferences, that is to come to common sense conclusions based on the evidence which I accept, but I may not speculate about what evidence there might have been or otherwise allow myself to be drawn into speculation. I have not made any findings of fact unless I am sure and, although I might not preface each finding of fact with that point, it should be taken that I am sure on the evidence of any factual finding that I have made. If I have made a factual finding it is on the basis that the Prosecution has the burden of proving its case so I am sure.
6. I have not conducted any reading into this case beyond the evidence sought to be and in fact relied on by the prosecution and defence. I have not considered any material that was not placed before the court or referred to in questioning of witnesses. I have not discussed the case or the evidence with anyone. Accordingly, the reasons for my verdict are entirely based on the evidence, my assessment of it and of the witnesses and the conclusions that I have drawn from all the evidence.
7. Ioan Roberts and Marco Leyton have pleaded guilty to the same offence with which the defendant is charged in this case. The fact that Roberts and Leyton have pleaded guilty is evidence that the offence was committed. But it is not evidence that the defendant took part in the offence. My job is to decide whether or not the defendant is guilty of the offence and I must do this based only on the other evidence presented in this trial. The fact Roberts and Leyton have pleaded guilty will not affect my assessment of the evidence or influence my decision in any way. Their admission of guilt does not alter the current case against the defendant in any way.

8. The fact the Defendant is in the dock is not relevant. I have treated the evidence of all witnesses equally. I shall decide whether any witness, including the Defendant, has been truthful and accurate or not, by having regard to what they say, whether it is consistent with what they have said on other occasions, how they gave evidence and how it compares to other evidence and to common sense.
9. Mr. Walker and Mr. Axon have each provided their written closing statements for which I am grateful. I heard speeches from both sides and I may wish to take account of the arguments in the speeches I have heard. I am not bound to accept them. Counsel and Solicitor for each of the parties ask me to look at the case from their respective position. Evidence is what I've heard from the witness box or what was read or the facts that have been agreed.
10. The defendant has no previous convictions or cautions. Good character is not a defence to the charges, but it is relevant in two ways:
 - (a) First, the defendant has given evidence. His good character is a positive feature which the court should take into account in his favour when considering whether it accepts what he has said.
 - (b) Secondly, the fact that a person has not offended in the past may make it less likely that he has acted as the prosecution alleges in this case. What importance the court attaches to the defendant's good character and the extent to which it assists on the facts of this particular case, are for the court to decide. In making that assessment the court may take account of everything it has heard about the defendant.
11. I take all of these matters into consideration in my assessment of the evidence.

Elements of the Offence

12. Section 3(1) of the Misuse of Drugs Ordinance 1987 provides:

...the importation of a controlled drug and the exportation of a controlled drug are prohibited.

13. Section 17 of the Misuse of Drugs Ordinance provides:

(1) It is an offence for a person to attempt to commit an offence under this Ordinance or to incite or attempt to incite another to commit such an offence.

(2) The punishment for an offence under subsection (1) shall be the same as the punishment that may be imposed on a person for the substantive offence.

14. Section 43(3) of the Customs Ordinance 2003 provides:

Any person who imports or is concerned in importing any goods contrary to any prohibition or restriction for the time being in force under or by virtue of any enactment with respect to those goods, whether or not those goods are unloaded, and does so with intent to evade the prohibition or restriction, commits an offence under this subsection and may be arrested without warrant.

The Evidence

15. The defendant was arrested on 18th June 2025 on suspicion of being concerned in the importation of tetrahydrocannabinol ('THC').
16. It was agreed that the defendant had travelled from the Falkland Islands on 28th February 2025 and that he had returned on 11th March 2025. Both flights were on the RAF Airbridge from RAF Mount Pleasant to RAF Brize Norton in Oxfordshire, United Kingdom.
17. The defendant was attending a training course in the United Kingdom as part of his employment with the Falkland Islands Prison Service and staying at the Premier Inn at *Unit 2, Oxford Technology Park, Technology Drive, Kidlington, OX5 1GN, England*.
18. When Roberts and Leyton were arrested, mobile telephones found in their possession were seized by police and examined. The defendants mobile telephone was also examined.
19. On 23rd February 2025 the defendant communicated twice with Roberts on Snapchat. He also had a video call with Leyton that lasted 9 minutes and 25 seconds.
20. On 24th February 2025 at 07:55, Leyton sent a message to the defendant in which he stated: *"Hey, send me your UK address, I'm talking to [Roberts] about the thing"*. The defendant responded at 08:01: *"Premier Inn Oxford Kidlington (Airport) hotel. I'll be there"*.
21. On 24th February 2025, at 19:06, Roberts sent a message to Leyton in which he stated: *"800 for a litre"* and at 19:08 *"2 litres 1400"*. Leyton responded at 20:20, stating *"yeah I mention it to them, brayan said he will have a think about it"*. At 20:20 Roberts responded *"Nice one"*.
22. On 26th February 2025 at 12:48, Roberts sent a message to Leyton in which he asked: *"Did Brayan say anything else."*

23. On 26th February 2025, there were very short video calls between Leyton and the defendant at 16:36 (24 seconds), 21:30 (48 seconds) and 22:17 (39 seconds).
24. On the same day, at 22:21, Roberts sent a message to another man, Felipe Menenes, stating *“Liquid in 3 weeks will need around £200 each me u Andrew for 500ml of liquid”*. At 22:22 Roberts sent a further message to Menenes in which he stated: *“someone bring down for me in 3 weeks”*.
25. Those communications were before the defendant left the Falkland Islands to travel to the United Kingdom.
26. On 27th February 2025 at 23:46, Leyton sent a message to Roberts in which he referred to “brayan” leaving the next day. At 23:46 Roberts sent a message to Leyton in which he stated: “he said he will transfer u the money tomorrow”.
27. The defendant left the Falkland Islands on 28th February 2025.
28. On 1st March 2025, the defendant transferred to the account operated by Roberts the sum of £400.
29. On 3rd March 2026, there were a series of messages exchanged between Roberts and Leyton:

[10:21] Roberts sent a message to Leyton in which he stated “Brayans address again please check”.

[11:04] Roberts sent Leyton an image of an electronic vaping device

[10:44] Leyton responded: *“Unit 2, Oxford Technology Park, Technology Drive, Kidlington, OX5 1GN, England”*.

[11:04] Roberts sent another message to Leyton that stated: “and he wont mind bringing to us”.

[11:08] Leyton responded “Nah he said that was fine”.

[11:08] Leyton sent a message to Roberts in which he stated: “A vape aint big”

[11:09] Roberts sent a message to Leyton in which he stated: “So some smaller liquids too?”

[11:10] Leyton sent a message to Roberts in which he stated: “...I’m sure he wouldn’t mind but idk how much space he has so I cant say.”

[11:17] Leyton sent a message to Roberts in which he stated “I think its his first time bringing shit with him and it is a lot so I think he is probably nervous haha”.

30. On 4th March 2025 at 13:26 Leyton sent a message to Roberts stating: *“Brayan is asking when will the things arrive to his?”*
31. On 4th March 2025 Roberts transferred from his UK bank account the sum of £750.
32. On 6th March 2025 at 13:49, Roberts sent a message to an unknown number stating: *“My mate got the package bro cheers for that”*.
33. The Airbridge was due to depart on 10th March 2025 but was delayed 24 hours.
34. On 10th March 2025 between 16:29 and 19:22 there was activity between Leyton and the defendant on Whatsapp. However, the content of that communication is unknown.
35. However, at 17:37 on 10th March 2025, Leyton sent a message to Roberts in which he stated: *“Brayan got stopped by police in the airport.”*
36. On 10th March 2025 at 19:44, Roberts sent a message to Menenes stating: *“The planes delayed liquid tmz!”*.
37. On 11th March 2025, the defendant returned to the Falkland Islands.
38. On 11th March 2025, Menenes sent a message to Roberts which stated *“Did the liquid arrive? I want to smoke”*. At 13:25 Roberts sent messages to Menenes in which he stated: *“just whenever the guy gives it me bro”, “he gets here today”, “but probs not in town till like 6 and then guess he will sort all his shit out”*. At 13:27, Roberts sent a message to Menenes in which he stated: *“So then I will distribute into 4 bottles. Referring to the distribution, Roberts said “Me u Andrew Jake” He did not mention the defendant.*
39. In a subsequent message to Menenes, Roberts suggested he use the THC *“smartly”* because it was not clear when he would be able to get more.
40. On 11th March 2025 at 21.29 hours, Roberts sent a further message to Menenes stating *“I’ve got to be up early bro but I will drop ure stuff off”*. A further message followed in which you said: *“I’m waiting still at the front”*.
41. The defendant was interviewed by police on 11th July 2025 and 7th November 2025.
42. Electronic communications were put in evidence. The Monzo bank statements of an account operated by Roberts were also put in evidence.

Defendant

43. It was the defendant's evidence that there had been discussion about the purchase of CBD vaping liquid. He said there had never been any discussion about THC and that he had never agreed to bring THC from the United Kingdom. In any event, it was his evidence that he had not brought THC with him on his return to the Falkland Islands on 11th March 2025.
44. The defendant had travelled to the United Kingdom on 28th February 2025 to attend training on the use of force that was connected with his work. He had carried with him personal protective equipment. On a previous occasion when he had travelled with his protective equipment, his luggage had been searched.
45. It was agreed that the defendant carried with him a letter from the Overseas Territories Justice Programme authorising him to travel with personal protection equipment issued by HMP Stanley.
46. The defendant has known Leyton for circa 10 years. He described him as a "casual" friend. It appears they shared an interest in sport. He knew Roberts having taught him karate and as a friend of Leyton.
47. The defendant was interviewed by police on 11th July and 7th November 2025.
48. In his first police interview he denied that he had brought anything into the Falkland Islands for Roberts or Leyton. He said they had discussed buying CBD and bringing it into the Falkland Islands but that he had refused. He said that he had, however, purchased CBD for his own use while in the United Kingdom. He told police he had bought a "...couple of ...milligrams" that he had consumed during his stay in the UK. He said in evidence that when he had referred to 'milligrams' he had meant 'millilitres'.
49. He said he had agreed with Roberts before he left the Falkland Islands that Roberts would purchase CBD for him.
50. When asked why he had not simply ordered the CBD himself, the defendant said that he didn't know anyone in the UK and that it was "easier" to ask Roberts to place the order. He knew that CBD vaping liquid was lawful in the United Kingdom and that by undertaking a simple Google search, he could have identified any number of suppliers in the United Kingdom.
51. He said that he had not told Roberts how much he wanted, how much he would usually consume in a week or the strength of the product he required. In fact, it appears the only information he

gave Roberts was that he wanted “enough”. He said the CBD arrived at the hotel at which he was staying in a clear bottle with a label stating it was CBD.

52. When he was interviewed in November 2025, the defendant told police that he had spent £300-£400 on CBD and that he had received one litre of CBD.

53. He said that during his stay in the United Kingdom he had used various vapes with capacity between 3ml and 5ml.

54. The defendant told police he had smoked “more than half” of the liquid. He said he had given the rest “to guys when he was training or friends from the same hotel.” The rest he had just left.

55. In evidence, he said that he didn’t have room in his luggage for the remaining CBD.

56. In evidence, the defendant said he had transferred money to Roberts to buy CBD vaping liquid and for gambling. He said he had intended only “a small amount” would be spent on CBD. He said that this was the first, indeed only, time that he had given money to Roberts for gambling.

57. The defendant was asked by police about the exchange of messages between Roberts and Leyton on 3rd March 2025 in which it was suggested that he might be nervous. In response he said “That’s why I didn’t bring anything. ...I was working and I was nervous...I need to stop at three different airports, so I don’t wanna risk that one.”

58. The defendant said in evidence that his luggage had been searched at RAF Brize Norton.

59. A statement dated 18th May 2026 of Christopher Kelly was put in evidence. Mr. Kelly said the defendant had agreed to carry brake discs for him. The brake discs were delivered to the defendant at the Premier Inn and were carried in his luggage on the return journey to the Falkland Islands. In his statement Mr. Kelley says that when the defendant dropped the brake discs off, he had made a comment about being searched “at the border” because they had looked suspicious on the x-ray.

Assessment of the Evidence

60. THC is a class A controlled drug under the Misuse of Drugs Ordinance 1987, and the Schedules thereto.

61. I am sure that Leyton and Roberts were part of a scheme to import THC into the Falkland Islands. The central issue is not whether the offence took place but whether the defendant was knowingly a party to the offence.

62. There is no single piece of evidence that proves the defendants involvement.
63. I remind myself that the defendant does not need to prove that he is innocent. The Prosecution will only succeed in proving that the defendant is guilty if I am sure of the defendant's guilt.
64. The defendant was to travel to the United Kingdom on 28th February 2025 to attend training.
65. Communications between the defendants were across a variety of platforms, including Snapchat, WhatsApp and Instagram. There are time gaps between the various communications. I am sure from the somewhat disjointed content of some of the communications between Roberts and Leyton, that conversations were taking place across several different media. I have also considered the possibility of other people being involved. I have taken all of that into account in my assessment of the evidence.
66. On 23rd February 2025, Leyton and the defendant had a video call lasting 9 minutes and 25 seconds. Also on 23rd February 2025, the defendant had communicated direct with Roberts on Snapchat. The content of that communication is not known.
67. The following day, 24th February 2025, Leyton told the defendant that he was talking to Roberts about "*the thing*" and discussing a significant quantity. Roberts told Leyton one litre would cost £800. Leyton told Roberts he had mentioned it to the defendant and that the defendant had said he would have a think about it. I am sure Leyton and Roberts were discussing liquid THC.
68. There were a number of short video calls between Leyton and the defendant between 16:36 and 22:17 on 26th February 2025. Approximately four minutes after his last communication with the defendant at 22:17, Leyton sent a message to Menenes in which he stated: "*Liquid in 3 weeks will need around £200 each me u Andrew for 500ml of liquid*". At that stage it would appear the plan may have been to purchase 500ml of THC. At 22:22 Roberts sent a further message to Menenes in which he stated: "*someone bring down for me in 3 weeks*". I am sure that Roberts was referring to the defendant who was expected to return to the Falkland Island on 10th March 2025.
69. I am sure that between 24th and 26th February 2025, the defendant had agreed with Roberts and Leyton that when he returned to the Falkland Islands on the scheduled 10th March 2025 Airbridge, he would bring with him liquid THC.
70. On 27th February 2025 there was a series of videos calls between the Defendant and Leyton. At 23:46:14 Leyton sent a message to Roberts stating: "*Just went out for a bit because brayan is leaving tomorrow*". Approximately 22 seconds later, Leyton sent a message to Roberts saying: "*BTW he said he will transfer the money tomorrow*". I am sure he was referring to the defendant.

71. On 1st March 2025 the defendant transferred to a Monzo account operated by Roberts the sum of £400.
72. The defendant gave Leyton the address in Oxfordshire where he would be staying.
73. When the defendant was first interviewed by police in July 2025, he said he had transferred money to Roberts for the purchase of CBD. In evidence, the defendant said that he had transferred the money to Roberts not only for the purchase of CBD but also for gambling. He had not mentioned a dual purpose during his police interviews. He said in evidence that he was expecting Roberts to spend some of the money on gambling. It seems highly improbable that the one occasion he had asked Roberts to purchase CBD was also the one and only occasion that he had transferred money to his account for gambling. Indeed, his assertion that some of the money would be used for gambling is not supported by the evidence.
74. The statements of the Monzo account operated by Roberts reveal that while some transactions were made to cryptocurrency or gambling websites, the transfer made by the defendant is clearly traceable. No payments to gambling websites are made from those funds.
75. Other than telling the court he thought Roberts would spend a “small amount” on CBD, the defendant had given no instructions to Roberts regarding the quantity of CBD that he wanted him to purchase, saying only that he had asked him to get “enough”.
76. The defendant said he had asked Roberts to purchase the CBD because he “didn’t know anyone” in the United Kingdom. However, he conceded that he knew CBD was legal in the United Kingdom and a simple Google search would have identified potential suppliers. The defendant could have contacted any number of suppliers online himself and purchased the quantity of CBD that he would require, paying online for his purchase and inputting the address at which the CBD should be delivered. Indeed, he could have even walked into a shop and bought some over the counter. Instead, he said he had asked Roberts to place the order. Although they were friends on Facebook and they had communicated through Snapchat, the defendant had not sent his address to Roberts. Instead, he had given it to Leyton to give to Roberts. He had then transferred money to the Monzo account operated by Roberts. He told the court he had left it entirely to Roberts to decide how much CBD to order for him. It was his assertion he had asked Roberts to place the order because it was “easier”. That made no sense at all. I am sure the defendant had not asked Roberts to buy CBD. He knew Roberts was buying THC – because he was party to the scheme - and that is what he expected would be delivered to him at the Premier Inn.

77. In respect of the Monzo account operated by Roberts, the statements record transfers from various individuals, including the defendant. I am sure that Roberts was actively pooling resources with others to purchase THC.
78. On 4th March 2025 Leyton sent a message to Roberts stating: *“Brayan is asking when will the things arrive to his?”* The same day, Roberts transferred from his UK bank account the sum of £750 that, I am sure, was payment for one litre of THC.
79. On 6th March 2025 Roberts sent a message to a person identified as ‘Wiz’ stating: *“My mate got the package bro cheers for that”*.
80. I am sure that between 4th and 6th March 2025, the defendant had received 1 litre of liquid THC – not CBD. Indeed, on 3rd March 2025, there had been a discussion between Roberts and Leyton during which Roberts had stated: *“I think it’s his first time bringing shit with him and 1 It is a lot so I think he is probably nervous haha”*. In his police interview in November, the defendant admitted that he had received a litre of a liquid, albeit he continued to assert it was CBD.
81. The defendant was interviewed by police in July and November 2025. During his first police interview the defendant was asked “How much did they buy for you?” In reply he said “I bought a couple of...milligrams.” In evidence he said he had meant ‘millilitres’.
82. The defendant told police in July 2025 that he had “consumed” what he had received during his stay in the UK. When the defendant was interviewed in November 2025, his story had changed. In November 2025, he told police he had received 1 litre of liquid – not the “couple” of millilitres that he told police in July he had received.
83. In his second interview the defendant said that he had transferred £400 to Roberts “to get enough”. However, between his first and second police interviews he clearly realised that it would be difficult to reconcile having consumed 1 litre of a vaping liquid – that he continued to assert was CBD – during his short stay in the United Kingdom. Therefore, having told police in July that he had “consumed” the liquid during his stay, in November his story had changed and he told police that he had smoked “more than half” – a very significant amount. Even assuming the defendant had used a 5ml vape, that would have been approximately 100 refills. He said that he had given the rest away, some to complete strangers, including “tourists” that he had met in the hotel. The rest he said he had just left. His explanation regarding the consumption of the liquid was so utterly implausible that I am in no doubt the defendant was lying.

84. In evidence he said for the first time that, in any event, he didn't have room in his luggage. In fact, I am sure the defendant carried one litre of THC in his luggage when he arrived at RAF Brize Norton.
85. The defendant told police his luggage was subject to a "full search" at RAF Brize Norton, the clear implication being that, had he been carrying drugs, they would have been discovered during that search.
86. Between 16:29 and 19:22, on 10th March 2025, Leyton and the defendant were in communication on Instagram. No record of that communication was available. However, at 17:37, Leyton had sent a message to Roberts in which he stated "*brayan got stopped by police in the airport*". It is possible his bag was searched. While there is no record of the defendant's luggage having been searched at Brize Norton, that is what he also told Mr. Kelly. However, the message from Leyton to Roberts did not say the defendant had been 'searched', only that he had been 'stopped'. Of course, the defendant carried with him a letter from the Overseas Territories Justice Programme authorising him to travel with personal protection equipment.
87. That Leyton was reporting to Roberts the fact the defendant had been stopped by police at the airport was only noteworthy because they knew the defendant was carrying drugs.
88. That the drugs had not been discovered at Brize Norton was confirmed by the fact that, at 19:44 on 10th March 2025, Roberts sent a message to Menenes in which he stated: "The planes delayed liquid tmz!"
89. I accept that, in addition to the importation of THC, there had been a discussion between the defendants regarding the importation of other items, including vaping equipment. I have considered and entirely discounted the possibility the defendant might have been duped into carrying a controlled drug.
90. The cumulative strength of the evidence is such that I am sure the defendant was party to the scheme to import THC into the Falkland Islands. I am sure the defendant had agreed with Leyton and Roberts to contribute funds to the purchase of THC and that he had agreed to carry THC into the Falkland Islands. I am sure that the liquid delivered to the defendant at the Premier Inn was THC. I am sure the defendant carried one litre of THC with him when he returned to the Falkland Islands on 11th March 2025.
91. I am sure that, together with Ioan Roberts and Marco Leyton, in relation to a class A controlled drug, namely tetrahydrocannabinol (THC), the defendant was knowingly concerned in the

fraudulent evasion of the prohibition on importation imposed by section 3(1) of the Misuse of Drugs Ordinance 1987, an offence under section 43(3) of the Customs Ordinance 2003.

92. Therefore, I find the defendant GUILTY of the charge.