



IN THE MAGISTRATES COURT OF THE FALKLAND ISLANDS
MC/SUM/02/26
Sentencing hearing: 8th June 2026

Before

HIS HONOUR JUDGE MALCOLM SIMMONS

BETWEEN:

REX

V

MARCO ANDRES LEYTON ESTRADA

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

MR. WALTER SCOTT appeared for the defendant

SENTENCING REMARKS

1. You appear before this court today for sentencing, having been convicted on 27th March 2026 on the following offence, that:

Between the 23rd day of February 2025 and the 14th day of March 2025, together with Ioan Roberts and Brayan Romero, 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.

Maximum Sentences

2. The maximum sentence on conviction for an offence under section 43(3) of the Customs Ordinance 2003 is 14 years imprisonment and/or a fine not exceeding level 10 on the Standard Scale.

Consecutive and concurrent sentencing

3. Section 573 of the Criminal Procedure and Evidence Ordinance 2014 provides:

(2) If a court imposes a custodial sentence on a person who is already serving a custodial sentence for another offence, the court may order the sentence for the subsequent offence to commence at the expiration of the first sentence, even if the total term of a custodial sentence exceeds the term for which the person can be sentenced for either offence on its own.

(3) In deciding whether to impose a consecutive sentence, the court must have regard to the following principles —

(a) consecutive sentences should not normally be imposed in respect of offences arising out of the same event;

(b) the total custodial sentence must not be excessive, having regard to the nature of the offences and the circumstances of the offender;

4. Additional guidance is contained in the Overarching Sentencing Guidelines. I have taken those factors into account in sentencing.

Sentencing Guidelines

5. The Overarching Sentencing Guidelines are applicable to sentencing.
6. The offence-specific sentencing guidelines are the 'Fraudulent Evasion of a Prohibition by Bringing into or taking out of the UK a Controlled Drug'.

Offending

7. You were arrested on 25th March 2026 as part of a separate police investigation. Following your arrest, mobile devices found in your possession – and in the possession of your co-defendants – were examined. Telephone messages revealed that you, together with Ioan Roberts and Brayan

Romero were party to a scheme to import tetrahydrocannabinol ('THC') into the Falkland Islands.

8. At the time of your offending you were working at Stanley Leisure Centre with Roberts. Arrangements for the importation of THC had been made during February and March 2025, with the importation taking place on 11th March 2025.
9. On 15th February 2025, you and Roberts exchanged messages on WhatsApp that referred to "liquid" and "huff". I am sure that '[L]iquid' was reference to THC, while the term "huffing" was used to refer to solvent abuse using compressed spray cannisters.
10. On 24th February 2025, Roberts sent you a message in which he said: "800 for a litre" and "2 litres 1400". I am sure that this was a discussion about the purchase prices for different quantities of liquid THC. You responded, stating "yeah I mention it to them, brayan said he will have a think about it".
11. On 27th February 2025, you sent a message to Roberts in which you referred to "brayan" leaving the next day and that he would transfer money to a bank account operated by Roberts. The following day, Roberts gave you his UK bank details.
12. "[B]rayan" was a reference to Brayan Romero, who was due to travel to the United Kingdom on 28th February 2025.
13. On 3rd March 2025, Roberts sent you a message in which he said: "Brayans address again please check". You responded: "Unit 2, Oxford Technology Park, Technology Drive, Kidlington, OX5 1GN, England". That is the address of a Premier Inn in Oxfordshire near to RAF Brize Norton. It was the address at which Romero was staying.
14. On 4th March 2025, you sent a message to Roberts stating: "Brayan is asking when will the things arrive to his?"
15. On 11th March 2025, Romero returned to the Falkland Islands on the Airbridge.
16. I am sure liquid THC was imported into the Falkland Islands on 11th March 2025.

Previous convictions

17. You have a number of previous convictions:

Making indecent photographs of youths

(93 category A still and moving images)
Contrary to section 247(1)(a) of the Crimes Ordinance 2014

Making indecent photographs of youths
(106 category B still and moving images)
Contrary to section 247(1)(a) of the Crimes Ordinance 2014

Making indecent photographs of youths
(108 category C still and moving images)
Contrary to section 247(1)(a) of the Crimes Ordinance 2014

Possession of extreme pornographic images
(1 still and 4 moving depicting acts of bestiality)
Contrary to section 256(1)(ii) of the Crimes Ordinance 2014

Possession of indecent photographs of youths
(135 category A still and moving images)
Contrary to section 246(1) of the Crimes Ordinance 2014

Possession of indecent photographs of youths
(72 category B still and moving images)
Contrary to section 246(1) of the Crimes Ordinance 2014

Possession of indecent photographs of youths
(73 category C still and moving images)
Contrary to section 246(1) of the Crimes Ordinance 2014

Perverting the course of justice
(concealing an electronic device containing unlawful material on behalf of another)
Contrary to section 462(1) of the Crimes Ordinance 2014

18. The image offences were committed from 2022 to March 2025 and the offence of perverting the course of justice between November 2024 and March 2025.
19. On 12th January 2026 you received a total sentence of imprisonment of 3 years for those offences.
20. These are recent convictions, although of a different nature to your current offending. I have taken that into account in sentencing.

21. The Overarching Sentencing Guideline recognises that certain offences in the Falkland Islands have different maximum sentences to equivalent offences in England & Wales and provides some assistance to sentencing courts on how to approach such cases. However, in this case we are not concerned with a simple disparity in maximum sentences. Rather, the issue here is the categorisation of a particular drug. The simple fact is that the Legislature of the Falkland Islands has chosen to categorise THC as a Class A drug rather than follow England & Wales. Were I to sentence on the basis that THC is a Class B drug, I would be going behind the will and intention of the Legislature. That would be, in my view, the wrong approach.
22. Mr. Leyton, there can be no doubt that you were an important part of this criminal enterprise. You were directly involved in making the arrangements to bring the drug into the Falkland Islands. You liaised with Roberts, who was arranging the purchase of the drug and with Romero who it was intended would bring the drug to the Falkland Islands.
23. This was an arrangement between individual users of THC to pool resources in order to obtain a quantity of the drug for their personal use. There is no evidence the drug would be sold on or distributed to others who were not party to the arrangement. There is no evidence you made any financial gain.
24. In terms of culpability, yours was an important, albeit, lesser role.
25. Turning to harm, you were party to a scheme to import 1 litre of liquid THC into the Falkland Islands. There is no evidence as to the chemical make-up or purity of the drug. The liquid was not available for analysis. Therefore, even calling expert evidence would not, in my view, have assisted. I have taken that into account in sentencing. The guideline refers to indicative quantities. Category 4 harm refers to 100g of cannabis while Category 3 harm refers to 6kg of cannabis. Therefore, while category 4 refers to small quantities of a drug at the level of personal use, category 3 covers larger quantities sometimes associated with lower level supply. The cost of the THC was £750 for 1 litre. While your financial contribution to the purchase price was £200, your role in the enterprise, facilitated the importation of the drug. The quantity of THC in this case exceeds Category 4 but does not reach the indicative quantities to which reference is made in Category 3, instead falling somewhere inbetween.
26. Lesser role, category 4 harm has a starting point of low level community Order with a category range of Band A fine to 18 months custody. Lesser role, category 3 harm has a starting point of 3 years imprisonment with a category range of 18 months imprisonment to 5 years imprisonment.

27. I have carefully considered all factors relevant to culpability and harm, the nature of this enterprise and your role in it. None of the statutory or other aggravating features relevant to sentencing are present in this case. Having balanced the various factors of Category 4 and Category 3, and before consideration of your mitigation and early guilty plea, a just and proportionate sentence is one of 12 months imprisonment.

Pre-Sentence Report

28. I have received from the Probation Service a pre-sentence report dated 7th January 2026 and an addendum thereto dated 28th May 2026, for which I am grateful to the Probation Officer.

29. You are a citizen of Chile. You were born on 13th October 1998 and you are now 27 years of age. You have lived on the Falkland Islands since you were 13 years of age. You are single. You own a house with your former partner on which there is a mortgage. Your father and step mother reside in the Falkland Islands.

30. At the time of your offending you were employed at the Stanley Leisure Centre. That employment has been terminated. Given your conviction for this offence, you may find it difficult to find employment.

31. You are assessed by the Probation Service as posing a medium risk of reoffending. In terms of this offending, you are assessed as posing a low risk of harm to the public. The current offence does not suggest an increase in risk of harm and this remains medium, due to your previous offending.

32. You told the Probation Officer that you accepted full responsibility for your actions. You have, it appears, expressed a willingness to work with the Probation Service to address your offending behaviour.

33. You are currently serving a sentence of imprisonment. The Probation Officer reports that you have made a positive start to your current sentence, reflecting on your behaviour and engaging well with the prison regime, regularly attending work parties. Your attitude towards education is positive and you plan to undertake courses in maths and languages while in prison.

34. I understand that you have maintained contact with family, receiving regular visits and telephone calls. You are also in regular contact with a former partner, with whom I am told you

remain on good terms and who continues to provide emotional support to you. You also receive visits from friends.

Sentencing

35. I have had the benefit of sentencing notes from Mr. Walker and Mr. Scott, for which I am grateful. I have listened very carefully to their submissions. I have taken into account everything said on your behalf by Mr. Scott. I have also considered carefully the Pre-Sentence Report.
36. You are currently serving a term of imprisonment. This offence was committed before you were sentenced for those offences. I have taken that into account. I have carefully considered totality and whether to make further allowance to take into account the earlier sentence. I have considered what sentence length would have been imposed if the court had dealt with this offence at the same time, to ensure the totality of the sentence is just and proportionate in all the circumstances.
37. I have considered the guidelines as to the imposition of a custodial sentence and whether it might be suspended. Your offending is so serious that I am satisfied only an immediate custodial sentence is appropriate.
38. I recognise that the impact of a custodial sentence will be significant. It will clearly also have an impact on your family and your financial circumstances.
39. I have taken into account your mitigation and I have given the full discount for your early guilty plea, arriving at a sentence that is just and proportionate.

SENTENCE

40. The starting point on conviction after trial would have been 12 months imprisonment. Having regard to your mitigation and early guilty plea, I reduce that to 8 months imprisonment.
41. The sentence of **8 months** imprisonment shall be **consecutive** to the sentence you are already serving.
42. Because of the immediate custodial sentence I am not making an order that you pay prosecution costs. I am not making a compensation order.