IN THE GRAND COURT OF THE CAYMAN ISLANDS
CRIMINAL DIVISION

Neutral Citation Number: [2025] CIGC (Crim) 50

Case No: IND. 26 & 32 of 2023

THE KING

-v-

RENAE HAMILTON

&

DORMAN SALMON

Appearances:	**Mr. Brian Treadwell, Counsel for the Prosecution** **Mr. Clayton Phuran, Counsel for the Defendant Hamilton** **Mr. Keith Myers, Counsel for the Defendant Salmon**
Before:	**Hon. Justice Emma Peters**
Sentence Ruling:	**24th October 2025**

SENTENCE RULING

Introduction

1. On 3 April 2025, after a jury trial, the defendants Hamilton and Salmon were convicted of one count of being concerned in the Importation of Fentanyl and one count of being concerned in a Money Laundering Arrangement.

2. Following those guilty verdicts, the summary offence of being concerned in the importation of Ganja committed to the Grand Court for trial pursuant to section 88(A)(1) of the Criminal Procedure Code (2021 Revision), was put to both defendants. Both defendants pleaded guilty. That being so they now come before the court to be sentenced in respect of those three charges.

<u>The facts</u>

3. The defendants were partners, in both senses of the word. They were in a relationship together that, at the time of this offending, had already borne one child and by the time of trial they had had a second child together. On their own evidence they had lived together for several years.

4. As is clear from the jury's verdicts, they were also running a drugs business together. That business, as evidenced by the significant quantity of telephone evidence adduced before the jury at trial was of them both, in an apparently equal way, running a drugs business where they principally supplied ganga to users. Users would message them directly and be supplied directly by them. That telephone evidence was presented to the jury to enable them to decide on the issue of whether the money that was the subject of count 2 was criminal property and to also see the history of the manner in which the April 2022 package was imported.

5. As a result of this business, they amassed criminal property which they then money laundered by sending it overseas either to the USA or to Jamaica, usually using third parties who were given a false story as to why the defendants themselves were unable to undertake a money transfer at any particular time. That money laundering was the subject of count 2 which spanned a large number of transactions over a period from January 2021 until May 2022.

6. In April of 2022 a package that had originated in California arrived in Grand Cayman. It was addressed to Salmon. It contained, inter alia, 5.22g of Fentanyl (a controlled hard drug), in the form of 51 Fentanyl tablets. The defendants had photographs of the contents of that package on their phones before the package even arrived in Cayman. It had been shipped from California 11 days earlier. A controlled delivery was conducted of the package which by then had been discovered by Customs and Border Control (CBC) to contain both ganja and fentanyl. It was collected by Hamilton. She completed the paperwork and was assisted with the package into her car. When

thereafter confronted, she ran, was chased and was arrested. The importation of that package was the subject of count 1 (in respect of the fentanyl) and the summary count in respect of the ganja.

7. Over the course of searches conducted of the defendants' shared home address and their vehicles, a number of items were found including (inter alia) cash, receipts, cell phones, scales, money transfer receipts and mason jars containing traces of ganja.

8. The defendants' phones were analysed and, as is common in cases of this sort where wrestling with vast quantities of raw data would be to place juries in an impossible position, the contents of those phones were extracted and presented to the jury by a telephone analyst at trial. The jury were able therefore to form their own conclusions as to the manner in which these two defendants set about running their business.

Prosecution submissions

9. The Crown makes the following general observations:

i. The defendants both played leading and equal roles. They were partners in both their personal and business relationships.

ii. The defendants cannot be considered intermediaries or couriers. This was their business; they sourced and distributed the drugs.

iii. They had a loyal customer base for selling drugs. The telephone evidence shows that they were professional and experienced drug dealers.

Prosecution submissions re Count 1 - Importation of Fentanyl

10. The maximum sentence for importing less than 2oz of Fentanyl is 25 years' imprisonment.

11. For the Court's benefit in sentencing, the Crown served a report from the Cayman Islands Chief Medical Officer, Dr Gent. His report provides information about the drug Fentanyl, its potency and the dangers associated with it.

12. The Crown invited the Court to give particular regard to the Chief Medical Officer's concluding opinion, namely:

> *The risk of lethal overdose from use of illicit fentanyl far exceeds that of other recreational drugs, as illustrated by comparison with MDMA. It would be reasonable for sentencing to reflect not just the quantity of tablet seized but also the foreseeable and extreme risk to users.*
> *In that regard, using a conversion factor based on a highly conservative estimate that lethal overdoses are 100 times greater for fentanyl than for MDMA, a seizure of 50 illicit fentanyl tablets represented at least as significant a public health risk as a seizure of 5,000 MDMA tablets, which is Category 2 under the MDMA sentencing guidelines.*

13. The Crown set out the relevance and importance of both the Cayman Islands sentencing guidelines and the Sentencing Council for England & Wales Guidelines (for brevity's sake, the UK Guidelines). I am grateful for their assistance in this regard.

Crown submissions on Culpability

14. If considering the UK Guidelines, the Crown submits that both defendants played leading roles. Specifically, the Crown submits that, based on the WhatsApp communications, both defendants had significant connections to others involved in the drug supply network. They were closely linked to the drug supply and importation into the Cayman Islands.

Crown submissions on Harm

15. Before considering where the offence of importing fentanyl would be classified under the UK Guidelines, the Court was reminded that the maximum sentence for the supply of Class A drugs in the UK is life imprisonment (with a sentencing range from a high-level community order to 16 years' imprisonment) whereas the maximum sentence in the Cayman Islands is 25 years' imprisonment.

16. However, it was submitted that consideration should also be given to the difference in starting point between the UK Guidelines and the 2002 Tariff and consider the application of a Cayman context

uplift to reflect the particularly detrimental effects of drugs in a relatively small island community such as the Cayman Islands.

17. The prosecution submission is that, taking account of the evidence of Dr Gent, on quantity and potency alone, this case would fall within Category 2 for Harm, tending towards the top end of that category. Considering the "Cayman context", and the damage fentanyl could cause in a small island community such as the Cayman Islands, the Crowns submissions were that may well lift the Harm into Category 1.

18. On the UK Guidelines Category 2A has a starting point of 11 years' custody with a range of 9 to 13 years' custody. Category 1A has a starting point of 14 years' custody with a range of 12 to 16 years' custody.

19. An important aggravating factor specific to this case is that, despite the warning issued by the Customs and Border Control Director regarding the dangers linked to Fentanyl (copies of which were contained in the phone messaging between the defendants), the defendants still proceeded to import the drug into the Cayman Islands. This alone shows a complete disregard for the serious potential consequences for those they intended to sell the tablets to.

20. The Crown drew the Court's attention to the following facts:

i. On 27 November 2021, Hamilton shared an article with Salmon from the Bellingham Herald titled "Fentanyl Warning Issued after recent Whatcom drug arrests."

ii. On 13 April 2022 (a day or so after the package was shipped), a Media Release from CBC was shared, which, amongst other things, stated: "the production, handling and consumption of Fentanyl can have deadly consequences, as is indicated by the unprecedented number of Fentanyl related deaths in the USA and Canada."

iii. The CBC press release further provides statistics on the number of recorded deaths, stating, "According to November 2021 data released by the Centres for Disease Control and Prevention (CDC), there were approximately 100,306 drug overdose deaths in the U.S. during 12 months ending April 2021. This trend shows an increase of 28.5% from the 78,056 deaths during the same period the previous year."

21. The Crown note that although it might be argued that the drugs had already been shipped, the defendants had every chance to cancel the shipment but did not, instead actively tracking it until it was ready for collection. Had it not been for the vigilance of the Customs Officers, the 51 tablets would have been sold to members of the public, with the potential for life-threatening consequences.

Defence Submissions re Count 1

22. Mr. Phuran observed that since there are no specific sentencing guidelines in the Cayman Islands for the importation of fentanyl, he too invited the Court to draw assistance from the UK Guidelines and adjust its position accordingly to fit the sentencing tariffs prescribed by the Cayman Islands' guidelines.

Defence submissions re Harm

23. Mr. Phuran submits that the difficulty in the present case is there is no clear evidence of quantity or the potency of the fentanyl seized. He submitted that in the absence of each tablet being individually chemically analysed that the Court has no information that it can use to assess potency. He suggests that the Crown ought to have had the tablets individually analysed (something the Crown have explained that they cannot have done due to the fact that the UK NCA and the US DEA have both confirmed that they do not conduct such analysis).

24. He suggests that sentencing without the proper identification of the percentage and potency of the drug would be breaching her right to due process. Referring to the potency paragraph in the UK Guidelines, Mr. Phuran notes that although the Crown did instruct the Chief Medical Officer, that is inadequate since a quantitative assessment was not done. He notes what was done by an "Instructed forensic consultant on behalf of CP Attorneys" but it must be noted that in oral submissions Mr. Phuran confirmed that person is his own daughter. Thereafter, Mr. Phuran undertook a mathematical approach to the process of reaching conclusions as to potency in his submissions.

25. The defence submits that sentencing must be based on concrete evidence of role and intent, not assumptions or broad characterisations, the defence points to a lack of evidence for organisational control, direction of others, or financial benefit with respect to fentanyl importation. The Defence submit that opinion of Miss Phuran undermines a foundational element of Dr. Gent's submission, specifically the certainty with which one can assert that the seized tablets posed an extreme and foreseeable risk of death.

26. The defence submits that the pills would be comparable to (on his maths) between 30.6 and 255 milligrams of heroin which would falls into category 4 harm, means that is where the Court he submits should pitch its assessment of harm.

27. Mr. Myers, on behalf of Salmon adopts Mr. Phuran's submissions and observes that the exercise upon which the Court must embark is not a mathematical one. He also observes that there is no direct evidence as to the "potency" of the fentanyl, by which I understand him also to mean the precise quantity of actual fentanyl in each individual tablet. He submits the harm is High Category 4 harm based on the weight of the drugs and the lack of evidence of them actually being sold given they were intercepted.

<u>Defence Submissions re Culpability</u>

28. Mr. Phuran says that where the telephone evidence was unable to identify the precise identity and detail of the people with whom the defendants were each exchanging messages with that it cannot be assumed that they had any connection to drugs.

29. He submits that, despite the jury's verdicts, that the reality of the evidence does not support the buying and selling on a commercial scale considering the amounts set out above. He says that Hamilton was not a principal nor played a significant role. The package was addressed to Salmon and Hamilton only went to collect the package on the instructions of Salmon. It is submitted that at best she was an interpreter for her co-defendant or at worst involved by pressure.

30. There is also no evidence to support that Hamilton had any management function in the chain or that she involved others by intimidation. There is no realised financial gain related to the

importation of the fentanyl. There was no evidence of previous importation of fentanyl and considering the amount of drugs, is submitted any gain could not be legitimately categorised as significant. She acted, says Mr. Phuran, under direction and as a result of dependence on Salmon. It is therefore submitted that Hamilton played a role at the lower end of significant or into a lesser role in the importation of fentanyl.

31. He submits therefore that the case is more akin to one of Significant Role, Category 4 harm (small quantity) which would have a starting point of 3 years custody and a range of 18 months to 5 years custody

32. So far as culpability is concerned, Mr. Myers submits that there should be no distinction drawn between the defendants in relation to their roles. He says that his client did not play a leading role.

Submissions re Count 2 – Entering into a Money Laundering Arrangement

33. The Crown's submission was that when considering the appropriate sentence for count 2, the Court was urged to take into account the impact this type of offence (particularly when it involves the use of financial institutions such as money transfer firms) has on the Cayman Islands as an International Financial Centre, as well as the reputational damage and loss of public confidence that ultimately results. Mr. Myers agrees that approach is correct. Mr. Phuran deals with the issue at paragraphs 59-61 of his submissions.

34. In October 2017, the former Chief Justice published Sentencing Guidelines for money laundering offences. The introduction to these guidelines states:

> *The Cayman Islands are an international global financial services centre. These Sentencing Guidelines therefore recognise the great importance of both deterrence and denunciation in imposing sentences for money laundering offences.*

35. Considering the Money Laundering Sentencing Guidelines, issued in 2017, the Crown say each defendant falls into High Culpability based on the following facts:

(i) Transactions across jurisdictions and countries;

(ii) A leading role where offending is part of a group activity;

(iii) Involvement of others

(iv) Sophisticated nature of the laundering;

(v) Significant degree of planning;

(vi) Conducted over a sustained period.

36. The value of Count 2 is KYD70,226.16 which puts it into Harm Category 3, albeit the starting point for that category is based on KYD150,000. The starting point on the Crown's submissions is therefore 5 years' custody and a sentencing range of 4 – 8 years' custody.

37. In determining the sentence for Count 2, the Crown invited the court to consider other facts that add to the seriousness of the offence including blame being wrongly placed on others and damage to the reputation of money transfer services.

38. Mr. Phuran submits that in fact the guidelines in respect of this count point towards a lower assessment of harm as, although the jury convicted the defendants of all of the funds listed in count 2 (circa KYD 70,000) and acquitted in respect of the funds in count 3, that I cannot be sure that all the funds were from illegal sources as the defendants worked and that that fact together with what the defendants said about where the money came from and what money was refunded, that harm should in fact be based on $50K. That combined with the assertion that Hamilton was not in a position of trust, involved no pressure or coercion on others and in fact was due to her being controlled by her co-defendant and was acting in a role more akin to his translator, leads Mr. Phuran to submit (at para 49 of his submissions) that the offence in respect of Hamilton should be considered to be Culpability A harm 4 so a start point of 3 years with a range of 2 – 6 years.

39. Mr. Myers says that due to the involvement of others and the unsophisticated nature of the money laundering that his client should be considered to fall into lower culpability and Mr. Myers refers to category 3 and category 4 harm although observing that the start point for category 3 is based on KYD $150K.

Submissions re importation of Ganja offence

40. The defendants also face a summary offence of being involved in the importation of 3.32 lbs. of Ganja. Ganja is not a hard drug. The maximum sentence for the importation of Ganja weighing one pound or more is a fine of KYD20,000 and/or imprisonment with hard labour for 7 years, for a first offence.

41. The Crown further observed that for the reasons outlined above, on the UK Guidelines, this is classified as a Category 3 offence involving the sale of Class B drugs directly to users, with individuals in leading roles. If they are correct the sentencing range for this offence begins with a starting point of 4 years in custody, with a range of 2 years 6 months to 5 years custody.

42. The defence set out similar arguments as they did in relation to count 1 and observe that in respect to the importation of ganja it is submitted that Miss Hamilton did not play a leading role and that there is no evidence to support the idea that Miss Hamilton had any management function in the chain or that she involved others by intimidation. It is therefore, submitted that Hamilton played a role being at the lower end of significant based solely on a presumed awareness in the importation of ganja.

43. So far as harm is concerned, they submit that the amount of ganja is 3.3lbs or 1.5 kilograms. Ganja being a category B drug under the English guidelines along with the quantity place this at category 4. Whilst it is higher than the category four amount of 100g harm it is below the 6 kg required for category 3 with culpability of significant role.

44. It is to be noted that the maximum for a category B offence is 14 years under the UK regime whilst it is 7 years in Cayman. So, the defence suggests that a category 4, significant role would have a starting point of high community Order with range of medium level community order to 9 months.

Submissions re Principle of Totality and concurrent vs consecutive sentences

45. The parties advanced submissions on the 2015 Cayman Islands Sentencing Guidelines outlining the totality principle and its application and in respect of the case of *R v Bouchard* [2016] CICA (Crim) 9.

46. In that case the Cayman Islands Court of Appeal (CICA) considered the observations of Lord Toulson in *R v GH* [2015] UKSC 24, to the effect that in many situations it would be bad practice to add money laundering counts to counts of thefts where the money laundering was simply the inevitable result of possessing, using or moving the stolen money. It would be otherwise, however, where the conduct involved some added criminality sufficiently distinct from the offence. In Bouchard, applying that principle, the Court of Appeal referred specifically to the removal of money from the jurisdiction and concealing the source of further funds, to be an example of just the type of criminality that warranted a separate charge and a consecutive sentence for money laundering. Although the sentence was reduced, the Court of Appeal upheld the imposition of consecutive sentences for the money laundering and forgery counts.

47. As in that case, the Crown invite the Court's consideration of the sentences for money laundering to run consecutively to any sentence on the drugs offences. Count 2 represents a separate and distinct offence to the drug importation. This offence involves Hamilton and Salmons' attempts to deliberately "clean" their proceeds of criminal conduct.

Defence Submissions on the issues of totality and consecutive vs concurrent sentences

48. Mr. Phuran submits that the offences in these matters arise from the same facts and series of conduct and there is nothing to suggest that the overall sentence would not reflect the overall criminality.

49. He drew a distinction with Bouchard, inviting the court to note the significant difference between the two cases. The case of Bouchard involved not only the stealing of just over 1.8 million from a vulnerable man but then seeking to hide in the "face of imminent discovery and to a certain extent succeeded, not only in removing money from the jurisdiction, but in concealing Can $377,000

which were removed from her Canadian account to which she has transferred them by someone claiming to be her father (although her father was no longer alive)."

50. The Defence submits that the decision in *R v GH* [2015] UKSC 24 held that in many situations it would be bad practice to add money-laundering counts to counts of theft where the money-laundering was simply the inevitable result of possessing, using or moving stolen money and that this case is more akin to that referred to by Lord Toulson in R v GH as in the present case the funds sent to America and Jamaica were simply the by-product.

<u>The Court's Conclusions</u>

51. There are no specifically-designed guidelines applicable to drugs offences in the Cayman Islands. The only applicable guidance comes in the form of the Chief Justice's Statement on Tariffs and Guidelines (2002) ("the 2002 Tariff").

52. The Cayman Islands Court of Appeal, in the case of *R v Millwood* (CICA, Appeal No. 30 of 2014), set out at paragraph 9:

> *"… we start by reaffirming the court's awareness of the difference between levels of sentencing in drug offences in this jurisdiction and in England and Wales. It is indeed for this reason that it is common ground on the appeal that the applicable guidelines are the Chief Justice's guidelines and not the UK guideline. However, it is in our view important to emphasise that the Chief Justice's guidelines are, as they indicate, simply guidelines. It is, therefore, necessary for the judge in a case like this to have regard to the whole of the case before her, including the amount of drugs involved, and all the other circumstances of the case. It is essentially a discretionary exercise in which case several factors will inevitably come into play".*

53. The CICA confirmed the applicability of the Statement on Tariffs and Guidelines in *R v Michael Palmer* (CICA, Appeal No. 23 of 2019). In particular, at paragraph 23, the Court set out:

> *"The judge was entirely justified in treating the relevant guidelines as being those promulgated by the Chief Justice in 2002. Unless and until*

they are replaced, they remain the definitive source of sentencing guidance in cases such as the present, notwithstanding the passage of time since they were propounded and notwithstanding that the maximum sentence for the offences had substantially increased."

54. The section of the 2002 Statement relevant to drugs offences is as follows:

> *As regards Drug Offences under the Misuse of Drugs Law and in particular those related to the widespread problem with cocaine abuse in these Islands, the following tariffs are now confirmed:*
>
> > *……At the other end of the scale of gravity, that is to say, trafficking in hard drugs in any quantity as defined in the Misuse of Drugs Law, the maximum penalty prescribed for offences involving 2 ounces or more is 20 years for the first offence and 30 years for a second or subsequent offence with an unlimited fine in each case. That of course is the maximum – the sentence for the worse possible offence by the worse possible offender.*
> >
> > *The tariff for a first such offence, involving less than 2 ounces of cocaine or less than 4 grams of cocaine base without mitigating circumstances, will be 8 years.*
> >
> > *For offences involving 2 ounces or more or 4 grams or more of cocaine base without mitigating circumstances the tariff will be 10 to 12 years. 15 years or more will be imposed where such an offence involves substantial importation or dealing in anyway either in powder or crack cocaine. We would define 'substantial importation or dealing' as any transaction involving several ounces or kilo quantities.*
> >
> > *The Courts recognise that many of the people caught are couriers or intermediaries and that the worst offenders in the chain of distribution often remain concealed. Therefore, there will be a substantial discount on sentence for those offenders who are prepared to co-operate with the police in their enquiries.*

55. The 2002 Guidelines remain the definitive source of sentencing guidance for the sentencing of drugs offences, and they set out that the sentencing range for importing less than 2 ounces of hard drugs without mitigation will be 8–10 years' imprisonment, with that uplift to reflect the increase in the maximum sentence to 25 years' imprisonment.

56. As has been observed in much Cayman Islands case law, the Sentencing Council for England and Wales Guidelines (for the sake of brevity the UK Guidelines) can be of assistance to a Judge sentencing in this jurisdiction and may assist in identifying applicable culpability and harm factors

57. Hon Justice Richards KC took assistance from the UK Guidelines in *R v Brown and Bryant* (SCA No 37 & 28 of 2023) when considering how to approach sentence in another case involving relatively novel drugs (psilocin). I agree that, whilst the Guidelines are not binding or determinative, they are helpful when considering the appropriate sentence in this case rather than solely relying on the 2002 Tariff.

58. The relevant Guidelines in respect of count one (and the summary charge) are those in respect of the Fraudulent Evasion of a prohibition by bringing into or taking out of the UK a controlled drug.

59. So, what conclusions would I reach were those to be the Guidelines in this case? The first step when considering those Guidelines is to determine the Offence Category by reaching conclusions as to Culpability and Harm.

<u>The Court's conclusions on Culpability</u>

60. The content of the telephone messages is obviously of significance in determining culpability. The fact that identity of the various individuals at the other end of the phone is not known cannot escape the reality of these being drugs messages indicative of a drug supply operation being run by the defendants.

61. The jury's verdicts show that they accepted that the defendants were running a drugs operation. I accept that the messages to those being supplied related to ganja supply but the fact that the defendants were importing fentanyl is such that it would be ridiculous not to infer that they proposed to use that same customer base for the purpose of supplying the fentanyl that they were importing.

62. This was not, however, an operation on a commercial scale. The illicit drugs world always involves a chain somewhere but here is no evidence that they had substantial links to or influence on others in the chain.

63. They both clearly and equally had an operational or management function here – in running what was their own business. They expected significant financial advantage as is apparent from their branching out into fentanyl in the context of having money laundered KYD70K plus over the previous year and a half in their ganja operation. The messages they exchanged with each other relating to the incoming package shows that they each had an equal awareness and understanding of the operation. I have concluded that their respective culpability is properly described as being a significant role.

<u>The Court's conclusions on Harm</u>

64. The central defence argument on this issue relates to the quantitative versus qualitative arguments put forward by Mr. Phuran. In effect the defence say that the tablets should have been individually analysed for their exact fentanyl content and then the total amount of actual fentanyl could have been added up. Whereas the Crown say look at the tablets and their numbers and potency.

65. In assessing harm, quantity is determined by the weight of the product. It used to be that Courts sentenced by reference to street value and purity. This approach changed, however, after the CACD judgment in *R v Aranguren and others* [1994] 99 Cr App Rep 347. The CACD in that case said that weight was a better way to approach the task of deciding on sentence.

66. The CACD case of *R v Warren*; *R v Beeley* [1996] 1 Cr App Rep 120 was one of the first cases to deal with the emergence of the then new street drug of the 1990's – Ecstasy. That case considered all of the factors and said that sentence should be determined by the weight of the drugs and the quantity of tablets. It observed that a specific tablet by tablet analysis was not routinely carried out. The UK Guidelines when it comes to Ecstasy notes that Ecstasy tablets quantities are based on a typical quantity of 150mg MDMA per tablet. However, it is clear that in the three decades that have passed since, it is not the case that Courts are given evidence to the exact quantity of MDMA contained in the tablets with which it is dealing. They are simply indicative quantities.

67. It is well recognised that illicit drugs are cut or adulterated with other substances. The risk of the unknown effects of adulteration are in fact an aggravating feature in the UK Guidelines. A kilogram of cocaine is rarely 100% pure. Sometimes evidence of purity is put before a court as it is considered to be evidence relating to the proximity of that dealer to the original source. As drugs are illegally traded they are repeatedly cut to increase their weight for sale to users. So, a kilogramme of cocaine at 100% purity is much more likely to be close to the original source than a kilogramme of that same drug at 35% purity. But they are both a kilogramme of cocaine and that is the basis upon which the courts approach harm.

68. Mr. Phuran says that the drugs should have been analysed for their fentanyl content to enable the mathematical calculation he advances. Put another way he is suggesting that their purity should have been determined. It will be noted that the word "purity" is not used in the UK Fraudulent Evasion Guidelines at any stage. The issue is potency.

69. The UK Guidelines contain the following paragraph (the "potency paragraph") at the start of the harm guidance:

> *Indicative quantities of the most common drugs, upon which the starting point is to be based, are given in the table below. Where a drug (such as Fentanyl or its agonists) is not listed in the table below, sentencers should expect to be provided with expert evidence to assist in determining the potency of the particular drug and in equating the quantity in the case with the quantities set out in the guidelines in terms of the harm caused. There will often be no precise calculation possible, but courts are reminded that in cases of particularly potent drugs, even very small quantities may be held to be equivalent to large quantities of the drugs listed.*

70. The "potency" paragraph refers to the expert evidence as to potency that Judges in the English Crown Courts should expect to be provided with. Having spent the last several years as a Circuit judge in the English Crown Courts, I would not have expected to have been provided with the sort of evidence that Mr. Phuran asserts should have been obtained for the mathematical purposes he asserts it should have been used. The kind of statement provided by Dr Gent (subject to compliance with the UK CPR 19.4 or, as here, the Powery principles I shall come to) would be exactly what a Judge in the Crown Court would expect.

71. Although it was not a matter addressed by any of counsel in their extensive submissions, a report of this sort ought to comply with the requirements as set out by Quin J in R v Powery [2009 CILR Note 7]. This report did not comply with the principles. It comes, however, from the Chief Medical Officer of these Islands and I consider his expertise and ability to express the expert opinion to be apparent from the position he holds here. For future reference, however, parties who seek to serve such evidence should ensure compliance with the Powery principles.

72. Dr Nick Gent CBE, Chief Medical Officer of the Cayman Islands said as follows:

> *General remarks*
>
> *This report has been prepared at the request of the Office of the Director of Public Prosecutions in respect to a seizure of tablets evidenced by forensic analysis to contain the drug fentanyl.*
>
> *Fentanyl is a synthetic opioid (morphine like drug) used in medical practice for the control of severe pain, such as in the management of cancer.*
>
> *It has a very high specific activity – that is the potency related to mass of drug is very high.*
>
> *The WHO Guidelines for the Pharmacological and Radiotherapeutic Management of Cancer Pain in Adults and Adolescents - Annex 6, Pharmacological Profiles and Opioid Conversion Tables (World Health Organization 2018) contains a useful guide to relative potency of a range of analgesic (pain killing) medicines. It suggests that fentanyl has a potency relative to morphine of 100 (although noting that pharmaceutical manufacturers prefer a figure of 150) (Footnote 1).*
>
> *This means that a unit dose of morphine can be replaced by a dose of fentanyl 100 times smaller by mass. For example 5-10 milligrams of morphine (a reasonably standard dose for an adult) can be replaced, with equivalent effect by 50-100 micrograms of fentanyl.*
>
> *Fentanyl, as with all opioid class narcotic agents is addictive.*
>
> *In the Cayman Islands fentanyl is controlled under the Misuse of Drugs Law (2017 revision) in the most restrictive category (Part I, Schedule 1); and requires an import certificate as a Section 1 narcotic drug under international control for importation into the Cayman Islands.*

Observations on the seized materials

I note that the analysis of the seized materials records that from a batch of 51 tablets, analysis on a sample of these tablets indicated the presence of three (3) pharmaceutically active ingredients – acetaminophen, tramadol, and fentanyl.

Acetaminophen (also known as paracetamol) is a non-opioid analgesic and anti-pyretic (reduces fever). Tramadol is an opioid narcotic, not as potent as fentanyl, and not currently controlled under the Misuse of Drugs Law.

The presence of mixed agents of these types indicates that these tablets have not been manufactured by a licensed pharmaceutical producer and will not conform to the safety requirements of Good Manufacturing Practice (GMP) standards.

The importance of this is that there is likely to be significant variability of the quantity of fentanyl between tablets. The high specific activity of fentanyl means that only a very small quantity (mass) of fentanyl is included in the preparation of a batch of tablets, and without the proper equipment to ensure even distribution between tablets significant maldistribution of fentanyl dose can, and often does, occur between individual tablets from a single batch.

Individual illicitly manufactured tablets may, therefore, contain a range of doses from very little effective dose of drug, through to potentially lethal overdosage within the same batch.

Both the strength of fentanyl and the issue of maldistribution of fentanyl between illicitly manufactured tablets are amongst the causative reasons for high fatality rates amongst users of fentanyl / fentanyl contaminated narcotics. These risks from illicit fentanyl use are compounded by the common inclusion of other drugs which may interact with the fentanyl content (as is the case in these seized tablets) and there being a very small difference between a recreationally effective dose of fentanyl and a potentially fatal dose.

In the United States and Canada fentanyl is responsible for the majority of fatal illicit opioid drug overdoses. In Canada, the alleged source of these tablets, 74% of opioid-related deaths involved fentanyl in 2024 (footnote 2).

The analysis of the seized materials gave a qualitative result for the presence of fentanyl, within a gross mass of 5.22 grams of tablets. The quantitative estimate is not calculable from this analysis. However, where fentanyl is detected in illicitly manufactured tablets the range of doses observed has been found to be from 0.02 to 5.1 milligrams per tablet according to US Drug

Enforcement Agency analysis, with 42% of tablets containing at least 2 milligrams of fentanyl, a potentially lethal dose (footnote 3).

It is also notable that the seized tablets are blue and marked with the letter 'M' and the number '30'. This is a typical marking for illicit fentanyl tablets. It is used to make illicitly manufactured tablets look like another prescription opioid that is in demand (specifically oxycodone or oxycodone-acetaminophen tablets). A good reference supporting this can be found in the article 'What's in samples sold as Percocet or M30 pills?' from the Addictions, Drug, and Alcohol Institute of the University of Washington (footnote 4).

Comparison of Fentanyl v MDMA

Although having significantly different clinical / recreational effects comparing risk of using illicit fentanyl compared to that of using illicit MDMA (ecstasy) illustrates the dangerous nature of illicit fentanyl tablets.

The US National Survey on Drug Use and Health (2023) estimated that the prevalence of illicit fentanyl and MDMA use was of similar orders of magnitude, with between 1.3 -1.8 million annual users of illicit fentanyl and 2.2 million users of MDMA. However, the annual death rate from illicit fentanyl use in the US is estimated at over 70,000 deaths, compared to 200-300 death per year from MDMA use.

Conservatively, an estimate of the comparative risk of using illicit fentanyl compared to MDMA suggests that risk of lethal overdose is at least 100 times higher for fentanyl tablets, compared to recreational MDMA use.

Opinion

The qualitative finding of fentanyl in these tablets alongside two other medicines not normally found in licensed medicines indicates illicit manufacture.

Fentanyl is controlled in the Cayman Islands, and possession without due authority, or prescription, is an offence.

Illicitly manufactured fentanyl tablets are very high risk for reasons given above and are a frequent source of lethal overdose in North America, where these tablets were allegedly sourced from.

The risk of lethal overdose from use of illicit fentanyl far exceeds that of other recreational drugs as illustrated by comparison with MDMA and it would be reasonable for sentencing to reflect not just quantity of tablets seized but the foreseeable and extreme risk to users.

In that respect, using a conversion factor based on a highly conservative risk of lethal overdose being 100 times greater for fentanyl v MDMA, I would suggest that a seizure of 50-illicit fentanyl tablets has an equivalent public health risk at least as significant as a seizure of 5,000 MDMA tablets, that is Category 2 of the MDMA sentencing guidelines.

Dr Nick Gent CBE

1 https://www.ncbi.nlm.nih.gov/books/NBK537482/

2 https://www.canada.ca/en/health-canada/services/opioids/federalactions/overview.html

3 https://www.dea.gov/resources/facts-about-fentanyl

4 https://adai.uw.edu/WAdata/DrugChecking/soldAsM30.html

73. I accept Dr Gent's evidence as to potency. The fact of his appointment and his position within the Cayman Islands is such that I do not consider the failure to comply with the Powery Principles lessens the validity or the value of his evidence.

74. As the potency paragraph says in the UK Guidelines, there is often no precise calculation possible but given the expert logic he advances and the fact that Category 2 harm is based on 1300 Ecstasy tablets, I agree that 51 Fentanyl tablets (as this case involved) can properly be considered to carry a Category 2 harm if considering the UK Guidelines. It can also properly be said that the quantity of tablets puts this into the upper range of category 2 (I note that category one is based on a start point of 7000 Ecstasy tablets)

75. The weights which determine the categories are not thresholds; they are indications of the general region of weight which goes into the relevant category. It is not exclusively an arithmetical process.

76. The start point for a significant category 2 operation of this sort in respect of Class A drugs would be a start point of 8 years with a range of 6 years 6 months to 10 years custody, if the Uk Guidelines applied.

77. I note at this stage the importance of considering the differences in the statutory maxima for the UK offence versus the Cayman offence, but I do so recognising the differing start points and ranges across the guidelines together with the 2002 Tariff.

78. The 2002 Tariff remains the definitive source of sentencing guidance in the Cayman Islands for the sentencing of drugs offences, and they set out that the sentencing range for importing less than 2 ounces of hard drugs without mitigation will be 8–10 years' imprisonment (with that uplift to reflect the increase in the maximum sentence to 25 years' imprisonment). That compares rather similarly to the start point that would be applied in UK.

79. It is an aggravation that the defendants were sharing the online warnings that CBC were issuing about this drugs – with photos of identical tablets that were in the defendants' package. They knew that what was coming had a considerable lethality.

Cayman Uplift

80. As Richards J observed in Brown:

> *However, while having regard to the approach in these Guidelines and the evidence of lesser comparative harm, my view is that the difference in jurisdictions is a significant factor. This is one of the factors compared by Professor Nutt. He has community as the last criteria of harm in the table provided. The Cayman Islands is a very small community where practices and behaviours are far more easily spread. The impact on the community in these circumstances must be substantially magnified. I consider there to be a sufficiency of distinguishing factors to allow for the adoption of an alternative starting point rather than that which is suggested by Counsel and the Guidelines. I am also mindful of the observations of the Court in the case of Thomas.*

81. Fentanyl is still, fortunately a rare drug in the Cayman Islands. This Court will no doubt reflect public concern in sentencing in a manner that seeks to deter those who are considering bringing this source of death and misery to the shores of these Islands.

82. My start point prior to mitigation in respect of the charge of importation of fentanyl is therefore 9 years imprisonment taking account of all of these factors.

The Court's Conclusions on Count 2 - Money Laundering

83. The case of R v Aspinall (CICA 16/2016) is referred to by the parties. At paragraph 47 of the CICA Judgment, the Court of Appeal observed that the sentencing judge had failed "to take account of the harm to the Cayman Islands as a whole." quoting section 2.2 of the 2015 Sentencing Guidelines,

> *Harm to the community*
>
> *Some offences cause harm to the community at large (instead of or as well as to an individual victim)…This may be particularly relevant where the offence has a potential impact on the tourist or financial industries of the islands…"*

84. At paragraph 48, The Rt Hon Bernard Rix, Justice of Appeal, observed that:

> *This point concerning potential harm to a critical Cayman Islands industry has long been a concern in sentencing in this jurisdiction …..This is not a reference to deterrent sentencing as sometimes understood (a particular sentence over the normal tariff) but a reference to the need to pay attention to the importance of the financial services industry in the Cayman Islands as part of the tariff for economic offences.*

85. The introduction to the 2017 Chief Justice Sentencing Guidelines for money laundering offences states:

> *The Cayman Islands are an international global financial services centre. These Sentencing Guidelines therefore recognise the great importance of both deterrence and denunciation in imposing sentences for money laundering offences.*

86. I conclude that the following factors place this offence clearly into High Culpability:

(i) Transactions across jurisdictions and countries (in this case the USA and Jamaica)

(ii) Involvement of others – the jury at trial heard from a number of witnesses who had been duped by each of the defendants into completing these money transfers on their behalf

(iii) The offence spanned a considerable period of nearly a year and a half and therefore I conclude that it was conducted over a sustained period.

87. The value of Count 2 is KYD70,226.16 which puts it into Harm Category 3, albeit the starting point for that category is based on KYD150,000. I reject Mr. Phuran's argument about the money (or any of it) being from the defendants' legitimate work – the fact the assertion was advanced by the defence at trial does not, given the defendants were convicted, make such assertions relevant now. Equally the fact that some funds may not have got through or may have been returned does not mean that the defendants did not seek to send the money in the first place – they did.

88. That leads me to conclude that the starting point for this category is therefore 5 years' custody and a sentencing range of 4 – 8 years' custody.

89. I consider that I must reduce that to take account of the actual amount they laundered (which is about half of the start point figure) but I also note that if I were to look to the harm category below that has a range up to 6 years imprisonment with a start point of 3 years custody based on a start point of KYD 25K, just over a third of what these defendants were to launder.

90. At this stage therefore (and prior to taking account of mitigation or the principle of totality should the latter become relevant) I conclude that the starting point for each defendant (again my conclusion is they played an equal role) is 4 years imprisonment.

<u>Importation of Ganja</u>

91. The defendants also imported 3.32 lbs. of Ganja. Ganja is not a hard drug. The maximum sentence for the importation of Ganja weighing one pound or more is a fine of KYD20,000 and/or imprisonment with hard labour for 7 years, for a first offence.

92. On UK guidelines I would consider this to be a Significant role (for the reasons I have set out above) category 3 offence (the quantity falls somewhere in the middle of the wide range covered between Category 3 (6kg) and Category 4 (100g)) with a starting point of 2 years imprisonment and a range of 18 months to 3 years.

93. I consider that, before mitigation, an offence of this sort in the Cayman Islands merits a sentence of approximately 2 years imprisonment

94. This is the one sentence that will be subject to a discount for credit. Since they pleaded guilty immediately upon the charge being put to them after conviction by the jury on the indictment I consider that it is not inappropriate to apply full credit.

<u>Should the sentence be concurrent or consecutive?</u>

95. The judgment of the CICA in Bouchard (see above) is highly relevant when that Court observes that money laundering counts should not be added to an indictment when the money laundering was simply the inevitable result of possessing, using or moving the stolen money (in that case where offences of dishonesty had been charged).

96. In respect of count one and the summary charge, I am dealing with these defendants for the April 2022 importation. But the money laundering charge concerned previous criminality and their convictions for it came about due to the jury seeing a multitude of evidence showing that they were involved in criminality that spanned a year and a half prior to the arrival of the April 2022 package. They were laundering money to the USA (perhaps to buy their new supplies of ganja or to fund their branching out into fentanyl) or to Jamaica where they appeared to desire to retire in due course to enjoy their ill-gotten gains.

97. This conduct therefore involved some added criminality sufficiently distinct from the offences of importation. Having made their money from their Ganja supply business (that trade not being specifically charged in this trial), and then used others who were innocent dupes in the form of their friends and colleagues to transfer the money overseas, that is an additional form of criminality that in my view merits a consecutive sentence.

98. In Bouchard, applying that principle, the Court of Appeal referred specifically to the removal of money from the jurisdiction and concealing the source of further funds, to be an example of just the type of criminality that warranted a separate charge, and a consecutive sentence for money

laundering. Although the sentence was reduced, the Court of Appeal upheld the imposition of consecutive sentences for the money laundering and forgery counts.

99. The Cayman Islands General Sentencing Guidelines (October 2015) state that:

> *"When an offender has committed more than one offence for which he is to be sentenced, the Court may structure the sentences to be either consecutive or concurrent. In accordance with the totality principle, the overriding principle is that the overall sentence must be just and proportionate. This can be achieved whether the sentences are structured as concurrent or consecutive, as to which there is no inflexible rule, simply guideline principles."*
>
> *"It is wrong in principle to impose sentences to run consecutively where those offences, though distinct in law, arose out of a single act so that the overall criminality for the offender can be represented by concurrent sentences. Concurrent sentences will ordinarily be appropriate where: (a) Offences arise out of a related incident or facts (b) There is a series of offences of the same or similar kind especially when committed against the same victim."*

100. I have carefully considered this point and the arguments advanced by the parties in respect of it. Whatever sentence I pass, if I make any of the sentences consecutive then I must apply the principle of totality to ensure that the total sentence is just and proportionate. Once more this is not about arithmetic, it is about fairness to the defendants whilst properly sentencing them for the criminality they have been convicted of.

101. I have concluded that the sentence for the money laundering, given that it involves distinct offending for a sustained period prior to the importation charges is deserving of a consecutive sentence. I will however reduce it to take account of totality. And further, to mark the need for totality to be at the forefront of my mind I propose to make the sentence for the importation of the ganja (contained in the same package as the fentanyl) run concurrently.

Mitigation – Ms. Hamilton

102. Miss Hamilton is a young woman of previous good character. She has no previous convictions. Based on the SIR she is at a low risk of re-offending. She is the mother of one young child (7-year-old son) and a baby girl (just under a 1-year-old). She was, according to the SIR, her family's (namely her children, mother and stepfather) primary financial source and emotional support. Her mother has been undergoing cancer treatment, and her stepfather is elderly. The loss of her support is detrimental to her family.

103. Miss Hamilton tested negative for drugs. The evidence of several people at trial and in the SIR evidence that she is a hardworking, nurturing and responsible individual. Mr. Phuran also submitted that she was financially reliant on Salmon and there are suggestions by others that there was domestic control (SIR).

104. She has occupied herself in custody by taking part in the drug programme and other programmes offered through His Majesty's Prison Service. She does not associate with any known criminal element.

105. She has two young children (both of whom her co-defendant is the father of) that it is said she is the primary carer for. The court notes that as at the date of trial her elder child was already living with other family members in Jamaica. She became pregnant with and had her second child (fathered by Salmon) after they had been arrested in respect of this case.

106. Mr. Phuran rightly observed that children without care and guidance create a troubling cycle which in most cases inevitably return before these courts.

107. From her arrest in April 2022 until her trial this Spring, Hamilton was the subject of restrictions which prevented her from visiting her ailing mother.

Hamilton SIR

108. Ms. Hamilton is 35yo and was born in Jamaica in a Christian household. Her father was absent from her life from a young age, but she was raised by her mother and stepfather. She came to the Cayman Islands in 2014 looking for work. She and her co-defendant met 9 years ago and have two children together, the elder one being 7 years of age. She lost her work permit as a result of this case.

109. Hamilton said her relationship with Salmon was "OK" and did not feature any physical abuse. He was jealous but not controlling. She told DCR in a later interview that there was violence in the relationship. Her relationship with Salmon ended when they were remanded.

110. Her aunt told DCR that there was physical and financial and verbal abuse within the relationship with Salmon. I note that in the evidence the Court saw at trial there was no hint of any such abuse. Hamilton's sister-in-law told the DCR that there was conflict over the division of household chores with Salmon.

111. She has performed extremely well in prison and has competed programmes and an intervention carried out by the National Drug Council. I was impressed by the selection of certificates she has collected for work done whilst she has been on remand over the past 6 months.

112. The defendant denied responsibility for the offences of which she has been convicted. She was assessed as having a low risk of reoffending.

Salmon Mitigation

113. Mr. Myers refers to the SIR and invites me to take account of its contents. He points to the fact that the defendant is the father of a 7-year-old and a one-year-old child. I also note from what I have read that he is also the father of a 13-year-old child. Mr. Myers says that he has undertaken literacy work in prison and is a model inmate.

Salmon SIR

114. Mr. Salmon is a 39 year old man who has no previous convictions. He is a man of good character. He was also born in Jamaica and was raised with good morals by both parents. He came to the Cayman Islands in 2002 on a work permit.

115. He is described as being married to Tamika McField, but I agree with the Crown's observations that that assertion together with Ms. McField's letter sits very uncomfortably alongside the evidence the jury heard at trial of the two defendants being in a relationship of many years standing and having two children together (which Mr. Salmon also admits).

116. Salmon and Hamilton remained living together after their arrests and until trial. The relationship is said to have taken place over at least 7 years which fits with what the Court heard and saw at trial and so I express my confusion that Ms. McField says they are and have been in a relationship and her 13yo son misses having his father around. His wife's letter to the Court says that the defendant was the financial backbone of the family and that without him the family was barely holding together. It is said that since arrest his son has been emotionally unstable. I have the greatest sympathy for the child who is entirely innocent and should not suffer for the sins of his father, but I repeat that I am at a loss as to how the 13yo son is bereft without a father who for at least 7 years appears to have been in a relationship with and living with his co-defendant and had two children.

117. Whilst the names of the children he has with the co-defendant are different across the two reports it is clear that Salmon is the father of the two children he and Hamilton have together.

118. Since his remand Salmon has engaged in rehabilitative work relating to drugs use. He is also engaging in work to improve his literacy. It was clear during the trial that his co-defendant would often act as his scribe or interpreter due to his poor literacy skills.

119. He denied ever being violent within his relationships. His wife said that he had never been abusive or aggressive. It is only Miss Hamilton who asserts that there has been domestic violence. He denied having any drug problem although again, that is inconsistent with what we heard at trial. He did tell the DCR about the extent of his ganja use.

120. His employer says that Salmon was a hard worker. He is described as a model inmate in prison. In interview with the DCR he initially denied his guilt but thereafter he is described as changing his account and admitting that he had known something of the content of the package. He is assessed as being a Medium risk of reoffending.

Sentence for Hamilton

121. Let me be clear that I take account of all of the mitigation I have heard and I am only making a specific mention at this stage of the main parts of it that I consider merit the greatest reduction of her sentence. I should also make clear that her mention at various stages of her interviews with DCR that she was controlled and was the victim of violence at her co-defendant's hands is not one that I accept. The evidence at trial was of a union of equals with Hamilton in fact to some extent being the brains of the couple. I saw nothing to suggest any violence between them and am satisfied that any suggestion at stages (I note not all) of her interviews with DCR is an unfair attempt to place more blame on her co-defendant and former partner.

122. Taking account of all that I have heard and read, I accept that I ought to reduce the sentence for Hamilton given her desire in due course to be able to be a mother to her two children who, if Ms. McField is correct (that she and Salmon will be together), will no longer will have their father in their lives.

123. Hamilton aspires to be the primary carer for the two children. Her son has lived for some years with her (Hamilton's) mother in Jamaica (including it would appear over the 1.5 years in which she was committing these offences). Her daughter was conceived after her arrest and whilst she remained on bail living with Salmon. For all of those reasons that reduction will be a measured and relatively limited one.

124. She has spent some years on bail and was limited in her abilities to see her family in Jamaica, including her elderly mother, in that time.

125. I also take into account in her favour the fact that she has never offended before and is a woman of previous good character. She has performed well in custody so far and has shown a real desire to better and rehabilitate herself.

126. As I have said above, I shall take account of the principle of totality in reaching a total sentence that is just and proportionate.

a. On count 1 – I sentence her to 8 years imprisonment

b. On count 2 – I sentence her to a consecutive term of 1 year and 6 months imprisonment

c. In relation to the summary change and giving her credit for her guilty plea to that charge I give her a concurrent term of 12 months imprisonment

d. That makes a total sentence of 9 years and 6 months imprisonment

e. Her time in custody will count automatically

<u>Sentence for Salmon</u>

127. Once more, I take account of all of the mitigation I have heard and I am only making a specific mention at this stage of the main parts of it that I consider merit the greatest reduction of this defendant's sentence.

128. Salmon is a father to three children and it is said that his eldest son is suffering without him. He has spent some years on bail which limited his opportunity to live life as he might have preferred.

129. I take into account in his favour the fact that he has never offended before and is a man of previous good character. He has also performed well in custody completing a literacy and a drugs programme and seeking to rehabilitate himself.

130. This was a partnership of equals and in my view the eventual sentence should not be any greater for this defendant and so, to achieve parity, I am reducing the sentence for Salmon to the same extent as I have decided to reduce it for Hamilton.

131. As I have said above, I shall take account of the principle of totality in reaching a total sentence that is just and proportionate.

a. On count 1 – I sentence him to 8 years imprisonment.

b. On count 2 – I sentence him to a consecutive term of 1 year and 6 months imprisonment.

c. In relation to the summary change and giving him credit for his guilty plea to that charge I give him a concurrent term of 12 months imprisonment.

d. That makes a total sentence of 9 years and 6 months imprisonment.

e. His time in custody will count automatically.

Ancillary Orders

132. The Crown makes an application for an order for forfeiture and destruction of a number of items seized during the investigation (including mobile phones) and further they apply for forfeiture of the cash seized during the investigation totaling KYD1,977, USD701, and JMD100.

133. Mr. Myers make no oral or written submissions against the ancillary applications. Mr. Phuran makes 4.5 pages of written submissions on the issue.

134. I conclude that given the facts and nature of the offences of which the jury have convicted that all of the cash should be forfeit as I conclude that there are good grounds in the context of these defendants (who have been convicted of money laundering and drug importation) to conclude that these are the proceeds of crime. Each of the currencies involved is for a country that they either laundered money from or into.

135. I conclude all of the other items should also be forfeit with the exception of a second phone seized from Ms. Hamilton which she asserts is her child's phone and a Lenovo laptop. Unless any specific messages or items were found on that phone relating to this investigation, then that phone (and the Laptop) should be made available to be returned to her child.

Dated the 24th day of October 2025

The Hon. Justice Emma Peters
Judge of the Grand Court

GRAND COURT CRIMINAL DIVISION CAYMAN ISLANDS