

IN THE EASTERN CARIBBEAN SUPREME COURT

IN THE HIGH COURT OF JUSTICE

ON MONTSERRAT

CASE MNIHCR 2020/0014

REX

V

MAURICE HUNTE

APPEARANCES

DPP Oris Sullivan and Ms Kadian McNeil for the Crown.

Mr Kenroy Hyman for the defendant.

2023: JULY 17

SENTENCE

For prison officer arranging phones and cannabis for prisoners

- 1 **Morley J:** Maurice Hunté aged 58 (dob 19.05.65) falls to be sentenced as a prison officer on three counts of misconduct in a public office during early 2020, following conviction by 11-day jury trial occurring 08.03-03.04.23, sentence being at large as common law offences. He was proved to have given a phone each to inmates Quincy Isaacs and Lindon Fergus, and to have been in a conspiracy with former inmate Chrisselton Jules to supply cannabis to prisoners.
- 2 Hunté is from Guyana, coming to Montserrat in 2002, bringing his family, and up to 2020 he was prison officer at junior grade, starting 01.01.10.
 - a. In April 2020, a prisoner named Stephen Molyneaux reported there were phones in the prison, which led to searches.

- b. On 05.04.20, Molyneaux pointed officers to a Samsung phone hidden in a sink in laundry, wrapped in plastic, belonging to inmate Quincy Isaacs, who is Hunte's son.
- c. Also that day on the prison farm was found a burnt cannabis reefer, and on 07.04.20 were found on the farm four cannabis reefers hidden in a jar.
- d. Then on 09.04.20, a Digicel phone was found hidden in a boot on the farm, admitted to by inmate Lindon Fergus.
- e. Inquiries led to Hunte, as Stephen Molyneaux reported he had seen Hunte pass a phone to Isaacs, which he had then helped charge, and former prisoner Chrisselton Jules reported he was in an arrangement to supply Hunte cannabis for inmates.
- f. Seizure of the two phones led to data showing Hunte being associated with them:
 - i. Concerning the Samsung recovered from Isaacs, investigation showed it was connected twice to the 'f212' wifi box where Nitisha Hunte lives and once to the '2452' wifi box where Kinnisha Isaacs lives, both being daughters of Hunte.
 - i. Concerning the Digicel recovered from Fergus, being a dark Digicel 501, investigation showed:
 - 1. There is a Digicel receipt showing Hunte bought the sim on 11.11.19;
 - 2. Notoya Gordon of Digicel gave Hunte a dark Digicel 501, by inference the one recovered, in around February/March 2020;
 - 3. Phone analysis showed the Digicel was set up against email account 'huntemaurice11@gmail.com';
 - 4. The Digicel was twice connected to the wifi box of Kinnisha Isaacs, Hunte's daughter; and
 - 5. In a whatsapp record on the Digicel of a conversation between Fergus and Jules, there is a text on 15.03.20 at 17.26, where Jules refers to Hunt saying *'wa ma say isa 50 piece him gi me but me no think me go bring that me go gi hunt fi drop it to you'*.
- g. In evidence, Jules said around February 2020 at 20.00, at the home of his grandmother he gave Hunte four cannabis spliffs for \$20ec to bring to the jail for Lindon Fergus, while the text conversation was about supplying cannabis to Fergus valued at \$50ec via Hunte, though it did not happen, covid beginning shortly after, so Jules smoked the '50 piece'. He further stated the cannabis found on 07.04.20 was supplied by him, not Hunte, by throwing the jar onto the farm grounds.
- h. Molyneaux said there were 5 or 6 phones in the jail, though during searches only 3 were recovered, and he attributed one unrecovered phone to another prison officer.

- 3 The overview is Hunte falls to be sentenced for bringing in two phones and arranging for cannabis, while others may have brought in phones, and there is no recovered cannabis attributable to Hunte.
- 4 On indictment, originally he faced six counts, to which he pleaded 'not guilty' on 23.11.20:
- a. Count 1 - official corruption, contrary to **s78 Penal Code** cap 4.02, maximum sentence 3 years, being solicitation from a prisoner of \$200ec, namely from Stephen Molyneaux;
 - b. Count 2 – Breach of trust, contrary to **s110** supra, maximum sentence 3 years, being conducting banking transactions for a prisoner, namely for Stephen Molyneaux;
 - c. Count 3 – Breach of trust, supra, being generally bringing in phones, a sim card, an mp3 player and a transistor for prisoners;
 - d. Count 4 – Breach of trust, supra, being bringing into the prison the Digicel phone, for Lindon Fergus;
 - e. Count 5 – Misconduct in public office, contrary to **common law**, maximum sentence life imprisonment, being conspiring with Chrisselton Jules to bring in cannabis to Fergus in February 2020; and
 - f. Count 6 – Misconduct, supra, being conspiring with Jules to bring in cannabis to Fergus in March 2020.
- 5 There followed delay, through 30 pre-trial appearances, owing to covid, and to difficulty over representation, as Hunte had paid former counsel Warren Cassell \$8000ec, but who said this was only for appearance at the Magistrates Court (which on Montserrat does not deal with sufficiency of evidence, the case being sent instead quickly to the High Court, meaning there was little work on the case to do before the magistrate, begging whether the large amount paid truly was only for work before the magistrate). Cassell later went to jail for offences of unrelated dishonesty, and Counsel Kenroy Hyman sought to assist Hunte, with the case listed for trial on several occasions, but either bumped by other over-running trials or adjourned for Hunte to complete securing fresh funds.
- 6 On 30.11.22, Hunte rejected an offer by the Crown to plead guilty to a single adjusted count of breach of trust, embracing phones and cannabis, instead pressing for trial.

- 7 On 01.12.22, the trial indictment was settled for simplicity as three counts of misconduct, and so amended unopposed.
- 8 On 08.03.23, Hunte pleaded not guilty to the trial indictment, and the jury was later sworn. During trial, count 1 was split into two counts, 1 and 4, to separate two phones, where count 1 referred to the Samsung, and count 4 to a ZTE phone recovered in the prison under a concrete slab, also on 05.04.20, but on which as the trial progressed there was no admissible evidence against Hunte so it was discontinued, leaving the three counts upon which he was convicted on 03.04.23, namely misconduct for bringing in the Samsung (count 1), Digicel (count 2), and the cannabis conspiracy (count 3), adjourning sentence for reports, remanding Hunte into custody, who had been on bail.
- 9 In a 2-page medical report dated 04.07.23 from Dr Chikelu Valentine, Hunte is said to suffer hypertension, and owing to hyperthyroidism, for which he is due surgery at some point, he suffers neck pain and an enlarged ear.
- 10 In an 8-page social inquiry report by Probation Officer Stanford Kelly, also dated 04.07.23, Hunte shows no remorse, repeated he is not guilty, is a Jehovah's Witness, goes to Pentecostal church, is a good cricketer, was in the Guyanan army, then sailing the Caribbean for 12 years, finally joining the Montserrat prison service where his income increased to \$3600ec per month, having five children, and is close with his family.
- 11 During the sentencing hearing, beginning on 06.07.23, then adjourning for further legal submissions on 13.07.23, on that latter day Hunte's younger sister Yonette Hunte, an environmental health officer, gave character evidence in his support. She said their parents are 88 and 82, father being homebound, both with heart issues and hypertensive, father suffering amnesia and diabetes, both living alone together, receiving \$1400ecpm social welfare, depending on Hunte for support, running errands, taking them out, which now has to be more widely shared by the family; she hopes for a sentence which will allow them to see him again at liberty before they die. She also described how he is devoted to family and has been particularly helpful with her introverted daughter, and with his grandchildren, so asks for leniency. Further adjournment to today 17.07.23 has been for remarks to be in writing.

- 12 Of note, during Hunte's offending, his son Quincy Isaacs (dob 18.03.94) was in jail, on remand, and then sentenced on pleas by this court on 14.01.20 to 3.5 years imprisonment for possession of a firearm and ammunition (which brazenly he had attributed to his young girlfriend CH), and a separate earlier offence of assault occasioning actual bodily harm, offences of supplying cannabis being discontinued. Isaacs is well remembered as a strong personality, difficult before the court, argumentative, later writing presumptive and assertive letters to this judge complaining about his sentence. By contrast, throughout all his appearances, Hunte has been quiet, meek even, and the strong impression has arisen his son has pushed and cajoled his father, while in the invidious position of being his jailer, to do his bidding, noting further Isaacs attacked and knocked out Molyneaux, who is a big man, when he learned he had reported his phone.
- 13 Counsel Hyman has approached the sentence from two angles:
- a. the sentencing maxima should be limited to the maxima on the statutory offences on the original indictment, namely three years, instead of life, as the Crown would have accepted a plea to a single omnibus breach of trust; and
 - b. there are no applicable ECSC guidelines specifically for misconduct, so the UK should be followed, where under what he argued the more serious case of **R v Collins, Jaffer and Lewis 2022** EWCA crim 742, sentences were in the region of 3 years, meaning Hunte should receive the same or less.
- 14 As to the first point, it is common practice a prosecutor may accept a plea to a lesser offence to avoid, first, consuming limited court resources by the time taken by a trial and second, the inconvenience to witnesses having to assemble. A defendant is given a choice: plead out or risk a bigger sentence. Hunte chose to take the risk of being convicted of more serious offences, and cannot now complain he faces a greater scale of culpability.
- 15 Turning then to the case of *Collins et al*:
- a. Collins as a civilian IT digital forensics specialist in Staffordshire police illegally downloaded 700000 police pictures of corpses, as private interest, on a plea to misconduct receiving 3 years;
 - b. Lewis and Jaffers were Metropolitan police officers where both breached a murder scene cordon, and Lewis took a picture on his phone of two murdered sisters found in a London wood, showing it to female officers, then together distributing it in two whatsapp groups

and offering it to the media, on a trial for misconduct meriting a starting point of 4.5 years, and on pleas both meriting 2.75 years.

16 Counsel Hyman suggests these cases more serious than what Hunte has done. While deplorable, breaching public confidence in police, in my view Hunte is worse. The pictures cases showed gross insensitivity to the victims of violent crime, and breach of police procedures, but the distribution was limited and the offending callously stupid, it appears not appreciating how having or showing the images was serious offending. Hunte however did the very thing he was under a duty not to, namely, being required to restrict the liberty of prisoners, and their access to goods, instead he gave them contraband, with calculation, and was in conspiracy with a former inmate. He changed from gamekeeper to poacher, from running with the hounds to running with the hares, stepping down from the guardhouse and getting into bed with criminals. The defendants in the pictures cases did not fully appreciate the trouble they would be in; but Hunte knew.

17 Corruption is:

- a. *'dishonest or illegal behaviour, especially of people in authority'*, per the Oxford dictionary;
- b. *'dishonest or illegal behaviour involving a person in a position of power'*, per the Cambridge dictionary; and
- c. *'dishonest or illegal behaviour especially by powerful people (such as government officials or police officers)'*, per the Merriam Webster dictionary;

18 To my mind, considering the above definitions, where, as misconduct, a prison officer brings to prisoners phones and conspires to bring in cannabis, knowing both contraband, this is plainly corruption, as dishonest behaviour and abuse of power by one in authority. As to why he did this, though he makes no admissions, I strongly suspect being close to his family he was inveigled and volubly pressed to do so by his wilful son, whom he tried to please, being then meekly drawn into criminality once inmates realised he could be put upon.

19 There are ECSC sentencing guidelines for corruption published in November 2021.

20 Corruption always requires firm sentencing, not only as punishment, but as deterrence, to keep public officers on notice of severe consequences, as corruption strikes at the heart of

fair administration, and once established is difficult to eliminate, there being a wide public perception, rightly or wrongly, there is much of it in the Caribbean region requiring eradication.

- 21 In weighing this misconduct, as corruption, turning to step one of sentencing procedure, assessing the offence, I find the offence falls within 'category of consequence' 2, as '*significant undermining of the proper function of...government...or public services*' in that as a prison officer Hunte was being a criminal, wholly undermining public trust, damaging the public perception of his colleagues in the prison service. Turning to 'category of seriousness', I find it falls within level B, as on the one hand there is plainly '*planning*', and also '*abuse of trust*' to merit level A, yet in a sense abuse of trust is inherent in the offence, while at level C I sense he was involved through coercion from his son, so I incline to split the difference. Category 2B creates a starting point of 40% the maximum, which for misconduct is life, meaning a notional 30 years, so that 40% is 12 years. I then adjust within the range downwards because I allow more for the pressure his son will have wrought, in a context it was invidious to be his jailer, and I do not see any benefit to Hunte, at all, either by way of money or some preferred treatment; instead I find he acted wholly to his disadvantage, there being nothing in it for him, only the prisoners. I therefore reduce the starting point by 3 years to 9 years.
- 22 Turning to step 2, assessing the offender, Hunte has no convictions, meriting a small reduction, of six months, as good character is to be expected of a prison officer, being the office he abused. I also accept he has been close to his family, much missed by his elderly parents, with health challenges of his own, meriting a further reduction of 18 months. Further, I take into account his case has been much delayed owing to covid, and Warren Cassell taking his \$8000ec, a sizeable sum for Hunte, leading to difficulty in securing counsel, eventually Counsel Hyman, who could not have fought the case harder, which delay merits a further reduction of a year. In sum the reduction is by a further 3 years, to 6 years.
- 23 Turning to step 3, credit for plea, there is none, as he was convicted by the jury.
- 24 Turning to step 4, totality, the offences were a combined course of conduct, namely helping the prisoners, meriting concurrent sentencing. In theory, the cannabis conspiracy might be consecutive, as different from importing phones, but there is no evidence he brought in any

cannabis, and regionally personal cannabis is being to an extent de-criminalised, the combination of which suggests concurrent sentencing more appropriate.

- 25 Turning to step 5, time on remand, it shall count since 03.04.23, being to today 104 days, and any earlier days in custody, including 41 days in the High Court, plus at the Magistrates Court and police station to be added (where the Crown think there were 3 days in the Magistrates Court though do not know how many in police custody), all to be finalised by the prison, but being in total so far at least 145 days.
- 26 Turning to step 6, ancillary orders, the cannabis spliffs, burnt reefer, and phones are ordered destroyed.
- 27 *Obiter*, the court notes the UK case of *Collins et al* would likely have produced similar sentences under the ECSC corruption guidelines if the less serious offending was treated as being category 3B – being 3 as offending of ‘*limited detrimental impact*’ owing to arguably the limited distribution of the pictures - with a starting point therefore of 20%, being 6 years, where with mitigation and a one-third plea discount the sentences may easily have fallen to around 3 years, as were passed.
- 28 *Maurice Hunte, please stand up*. For three offences of misconduct in a public office, namely as a prison officer bringing to prisoners a Samsung phone, a Digicel phone, and being in a conspiracy with a former inmate to bring in cannabis to the jail, the sentence on each count is 6 years imprisonment, each sentence to run concurrently. Time on remand shall count, to be applied to your release date by the prison. You shall be eligible for remission of one-third your sentence if of good behaviour. You may go with the gaoler.

The Hon. Mr. Justice Iain Morley KC

High Court Judge

17 July 2023