

**IN THE DISTRICT COURT  
AT INVERCARGILL**

**CRI-2017-025-002244  
[2018] NZDC 4197**

**THE QUEEN**

v

**SHAUN KEITH TIPPETT**

Hearing: 6 March 2018

Appearances: K Allan for the Crown  
K Barker for the Defendant

Judgment: 6 March 2018

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**NOTES OF JUDGE K J PHILLIPS ON SENTENCING**

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[1] Mr Tippet, you are 33. You are for sentence before me on a number of serious drug dealing charges some of which relate to dealing in Class A methamphetamine, others in relation to Class C cannabis. You are a man with a past history of possession of cannabis for supply and selling cannabis in 2015 where you went to prison. You have other convictions for serious violence and dishonesty.

[2] Here the police, I think, became aware of your offending through July and November of last year, over a period of some five months. You were at work driving a truck when the police stopped and searched you on 20 November 2017. Even at work you had some drugs upon you, some 10 grams of cannabis. In your backpack there was \$3356, plastic containers and a "tick list". In other words, a list of people who owed you money for the drugs you had supplied to them.

[3] At the search of your home, there were electronic scales, plenty of zip lock bags and a rifle with ammunition found. In your car parked outside your work there was a sawn off .22 rifle with a pistol grip which was loaded i.e. a “round” in the chamber. An analysis of your cellphone showed that you had been supplying methamphetamine and cannabis through text information between 20 October and 20 November 2017. Examination of your Facebook account, however, showed that July 2017 through November 2017 you had been selling methamphetamine and cannabis. There are some 53 customers on your Facebook page. They were receiving or buying from you quarter, half gram and one grams of methamphetamine. They could buy “on tick”. Accordingly you face these charges including a representative charge of supplying methamphetamine and possession of methamphetamine for supply, and also for selling cannabis in September through November of 2017. You would get a pound of cannabis and you would sell ounces at \$400. A photograph on your phone showed a number of \$50 bags. As a result of that there are representative charges in respect of cannabis. That is possession and supply and the offers to supply methamphetamine from your Facebook page, June and July 2017. You admitted when you were spoken to, of selling 50 or so quarter grams of methamphetamine which approximates about \$12,500. You had your firearm for your protection, you said.

[4] The preparation for sentencing has involved me considering a Pre-Sentence report. It all comes down to your lifestyle, attitude and your addictions. I think you have a negative attitude to authority and to rehabilitation. You would blame others for where you are “at”, at the present moment in time. Against all that I read how good a truck driver you are, how good a worker you are. I do not know whether it was because you were “primed up” on methamphetamine or not, but you come very highly recommended. I have to balance the use of drugs and your driving work, but in the end there is no hesitation in the correspondence I have been given from your employers about your ability to work. You have got to get the addiction “monkey off your back”. That is really what I think this is about.

[5] I have to deal with you on the basis of denunciation and deterrence. There is no other way I can do this. I, as the Crown points me to, have to use a decision of the

Court of Appeal called *R v Fatu*.<sup>1</sup> which sets banding for this type of methamphetamine dealing. You are in band 2 because of the number of sales and the quantities. The starting point is between three to nine years' imprisonment. Low quantities: quarter gram. Frequency: high. I accept the Crown's submission that your operation was a wide-ranging commercial one. The Crown says the starting point is about four and a half years' imprisonment. That is about middle of the band.

[6] In relation to cannabis, when I have regard to it, it falls in Band 2 of another tariff decision, *R v Terewi*.<sup>2</sup> The starting point could be as high as three years. With totality, the Crown seeks a years' imprisonment.

[7] In regards to firearms offending, again the Crown reviews a number of authorities (which I have read) and indicates a starting point normally of 18 months. With totality, six months to make a total sentence of six years; plus for your priors a further three months, taking the sentence to six years and three months. With a guilty plea credit, an end sentence of four and a half years.

[8] Ms Barker has given me written submissions on your behalf. She does not dispute the seriousness of the offending. (Neither do you, you are a realist.) The nature and type of the duration. What Ms Barker emphasises to me is your addictions and the cost of sustaining your addictions. I take that with a bit of a "grain of salt" I am afraid because you are a person who could work and work to the satisfaction of your employer where the big tick is given to you. I have some issues about whether you are totally addicted. You certainly had the sources and you certainly used them but in the end, I do not think it was a driving force, I think greed was the driving force. She says however, there was no profit. At the time you were caught you had entered in a relationship, you had work and you were going to change your life just you did not seem to have done anything about it.

[9] I have letters which I have read, (helpfully supplied from Ms Barker,) from your mother as well as your employer. In the end the submission made that it was entirely driven by your own drug addiction I do not accept. I take into account the

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<sup>1</sup> *R v Fatu* [2006] 2 NZLR 72 (CA).

<sup>2</sup> *R v Terewi* [1999] 3 NZLR 62 (CA).

position as explained in detail to me in relation to your background. Overall the defence cannot argue the position put to me by the Crown because in reality I think Ms Allan has taken a very merciful approach and has not tried to “milk” it at all and call for outlandish starting points or end points.

[10] The forfeiture order which I make is not opposed by you. I acknowledge immediately that you are a person who overall has said once you were apprehended basically “it is a fair cop, just get on with it”. I think that kind of realism is indicative maybe and hopefully of a person who perhaps realises they are going to a long-term prison sentence and wishes to put “his best foot forward” in relation to it.

[11] The position is this. Methamphetamine offending. The starting point of four years and six months put to me, I accept. The cannabis has to be added onto that. I accept one year is merciful taking into account totality and the frightening position as regards to the firearms. Again I accept what the Crown says to me of six months all added together. I think that if I had been looking at it myself without the benefit of the Crown submission I would have been talking about a starting point of seven and a half years but I adopt what the Crown puts to me of six years.

[12] Previous drug dealing offending would normally call also for a strong response from the Court. I accept what the Crown says of three months to make overall starting point of six years and three months. You are entitled to a credit of 25 percent for your guilty plea. I acknowledge that you have “put your hand up” clearly right at the outset of this matter.

[13] After all of that, Mr Tippett, the end is this: you are going to be sent to prison on all these charges for a total of four years and eight months. I make an order for the destruction of all seized firearms and ammunition, all seized illicit drugs and drug dealing paraphernalia. I forfeit to the Crown the sum of \$3356. That sentence is imposed on the charge under charging document 3790 as per the document which the Crown has put on in relation to the charges, the Crown prosecution note as charge 3. In respect of the charges detailed in that notice the following sentences are imposed all of which are to be concurrent to run at the same time. Charge 1: offer to supply Class A drug, three years. Charge 2: possession of Class A drugs for supply, three

years. Charge 4: possession of cannabis for supply. Charge 5: selling cannabis, one year six months on each. Possession of cannabis, one month. Unlawful possession of a pistol, unlawful possession of a firearm, a total of one year and six months all told and that comes back as concurrent sentencing to four years and eight months in prison.

K J Phillips  
District Court Judge