

**IN THE DISTRICT COURT
AT MANUKAU**

**CRI-2015-092-013000
[2016] NZDC 3419**

THE QUEEN

v

YING CHE LIN

Hearing: 2 March 2016
Appearances: G Kayes for the Crown
S Cassidy for the Defendant
Judgment: 2 March 2016

NOTES OF JUDGE C S BLACKIE ON SENTENCING

[1] Ying Che Lin, you are before the Court today for sentence on one charge of importing an A class controlled drug, namely methamphetamine. That is a charge which carries under New Zealand law a sentence of up to life imprisonment.

[2] I am told that on 21 June 2015 you arrived in New Zealand along with three associates at the Auckland International Airport, having travelled from Taipei in Taiwan. Your associates were close family members. On arrival you and your associates underwent a baggage search by New Zealand Customs officers. Each of you was travelling with a suitcase. In each of the suitcases a concealment was found within the lining of the suitcase. Those concealments were wrapped in black plastic and hidden behind the panels underneath the lining. Each concealment contained the Class A controlled drug methamphetamine and in total 9.11 kilograms of methamphetamine were found to be imported.

[3] You told the customs officers that you had borrowed the four suitcases from a friend in Taiwan. That in itself would seem to be unusual, borrowing suitcases for each member of your party. The Court has also been told that you paid all the expenses for the group to travel to New Zealand. The Court is also told that you knew, or if you did not know, you wilfully turned a blind eye to the fact that those suitcases contained this drug methamphetamine.

[4] The estimated value of the methamphetamine, if sold in grams in New Zealand, would be between 4.5 and \$11 million. In other words, this is importing this drug into New Zealand on a relatively large scale. Somewhere along the line people were making large amounts of money.

[5] What you have involved yourself in is the bringing into New Zealand of a substance which causes untold misery to so many New Zealanders. The trade is for profit based on other people's misery and misfortune. In many instances people who are addicted or become addicted to methamphetamine end up before the Courts and their lives destroyed. They commit offences while under the influence of the drug. They commit offences to get the money to pay for the drug, to pay for the drug dealers of which you are now one, and they commit offences in the drug trade to support their own habits. Hence the need for the law to provide for substantial penalties on drug dealers to deter them from this type of activity, to protect New Zealand citizens and to serve the interests of our community.

[6] You will have heard discussion today between the lawyers as to what should be an appropriate starting point in sentencing you. There is already a fairly well trodden path based on cases that have already been before the New Zealand Courts as to the starting point for sentences involving similar importations to the importation undertaken by you and perhaps your associates. I refer to four cases which have been put before me: the case of *R v Jian & Anor* HC Auckland CRI-2010-092-010777, 7 September 2010, a starting point of 15 years' imprisonment for importing 8.1 kilograms; the case of *R v Ang* HC Auckland CRI-2008-004-012540, 18 November 2008, a starting point of 15 years' imprisonment for the importation of four kilograms of methamphetamine; the case of *R v Boyarski & Anor* HC Auckland CRI-2006-092-012125, 29 May 2007, a starting

point of 14 to 16 years' imprisonment for importation of 4.7 kilograms of methamphetamine and the case of *R v Pai & Anor* [2015] NZHC 2345 a starting point of 18 years' imprisonment for the importation of 22.6 kilograms of methamphetamine.

[7] Using those cases by way of analogy, it is contended that in your case a starting point of 16 years should be adopted and I adopt that starting point accordingly.

[8] The question now is what issues can I take into account which might serve to reduce that sentence to what I should ultimately impose? In the case of drug dealers there is not usually much that can be taken into account in relation to their personal circumstances. However the Crown accept that I should give you a discount of 25 percent for the fact that you have accepted responsibility and pleaded guilty. Some might think that is a very generous discount, bearing in mind that you were caught at the airport with the drugs in your possession. But the Crown accept that there may have been some room for a potential defence and that your decision to plead guilty should be appropriately recognised. Your counsel obviously accepts that a 25 percent discount would be appropriate.

[9] I am asked also to consider by way of a discount the fact that you are going to be serving a sentence of imprisonment in a New Zealand prison which you might find difficult on account of language issues. However many might think that that goes with the territory for drug dealers in the same way that it affects New Zealanders and Australians who serve sentences in overseas prisons, particularly in Asia. I am also asked to give you a discount on account of the fact that you have allegedly provided some assistance to the authorities in Taiwan to locate an offender in that country who is implicated in the methamphetamine trade. Apparently, according to an email received just recently, a person has been arrested but is yet to be finally dealt with. How much his arrest and appearance before the Court has been brought about by your assistance it is not possible to tell, but I accept and it is accepted by the Crown that you have provided at least some assistance, and that is a factor that I can properly take into account.

[10] So looking at your position overall, I am going to deal with the sentence as follows. From a starting point of 16 years, you have available a 25 percent discount which reduces the sentence from 16 years to 12 years. From the 12 years I give you a further discount, which I am not going to describe in percentage terms, but a further discount of two years' imprisonment on account of (a) your serving a sentence in a New Zealand prison and (b) your assistance to the Taiwanese authorities. That would therefore result in an ultimate sentence of 10 years' imprisonment.

[11] I am asked by the Crown to consider whether I should impose a minimum parole period. Fortunately for you, as a foreigner, New Zealand law prescribes that prisoners are eligible for parole initially after one-third of their sentence but the Court can impose a minimum parole period so that eligibility does not arise until that period has expired. Invariably though, in cases involving drug dealing, particularly drug dealing of this magnitude involving foreigners, and the need to ensure that there is a proper deterrence on people who are prepared to bring these drugs into New Zealand, a minimum parole period is set by the Court. Based on the summary of facts whereby you have to accept that you imported these goods or willingly turned a blind eye to the importation of the goods, and by goods I mean methamphetamine, you fall within the precedent set by the cases for the imposition of a minimum parole period which I set in your instance at 50 percent.

[12] Accordingly you are now formally convicted and sentenced to 10 years' imprisonment with a minimum parole period of 50 percent.

C S Blackie
District Court Judge