

**IN THE DISTRICT COURT
AT CHRISTCHURCH**

**CRI-2014-009-002085
[2016] NZDC 3707**

THE QUEEN

v

ARTHUR MOHI

Hearing: 2 March 2016
Appearances: C Boshier for the Crown
S Bailey for the Defendant
Judgment: 2 March 2016

NOTES OF JUDGE D J L SAUNDERS ON SENTENCING

[1] Mr Mohi, you are for sentence now in relation to offending that involved methamphetamine dealing back in 2014. Three other persons other than yourself were implicated in that offending and they have all now been dealt with by the Court for their respective involvement.

[2] The principal offender for this was identified as Tamal Mcmeekan and on the evidence that was available when I sentenced him, he was very much accepting that he was the organiser of the importation of methamphetamine from Auckland and Christchurch, and the distribution of it.

[3] Following a sentence indication that Mcmeekan sought, an overall sentence of seven years nine months was imposed for the offending that he was involved in in January-March 2014 and then the subsequent August incident.

[4] The drug courier, Ms Walkinshaw, was sentenced for her involvement, and I believe she received home detention in relation to that. I was not the Judge who dealt with her in relation to her involvement.

[5] The third player, a Ms Erin Sigvertsen, received 11 months' home detention in December last year, after persuading the Court that she had given birth to a child and she had addressed her offending and was removing herself from the drug scene completely.

[6] Your involvement, however Mr Mohi, was much greater than those two that I just mentioned, the two women, one of whom was the courier, and in June I accepted when the sentence indication was given to you, that you would be dealt with in a lower category of sentence than Mcmeekan, as you were effectively there as somebody who was to mind the courier when she went to Auckland to uplift the methamphetamine, and that you were there involved in the offending very much because you were drawn to the money that you could receive from being a party to this particular enterprise.

[7] The aggravating features around the August offending were, of course, that you were already on bail for the January to March matter and that there was a very large amount of methamphetamine worth a considerable amount of money that was brought back into Christchurch on that occasion.

[8] I accepted at the outset that you were not involved in the financing of it and that when I gave you an indication back in June of last year, a five year start point was seen appropriate for that offending, with a credit at that time of 15 percent for the guilty plea if it was forthcoming, and if the sentence indication were accepted.

[9] Back then I was dealing with two charges of possession for the purposes of supply. Close to time of trial the Crown agreed with submissions that Ms Bailey made on your behalf and there was an amendment of the charge for the March incident, where you were found at a motel where Mcmeekan and Sigvertsen were, that you would plead to a charge of conspiracy around the methamphetamine as opposed to the actual possession for supply. Upon the basis that the Crown amended

the charge to one of conspiracy you pleaded guilty, and you have remained in custody awaiting sentence in respect of this matter.

[10] What Ms Bailey sought insofar as her written submissions that were filed prior to today, was that I should adjust that starting point that I gave you back in June to reflect the fact that there is a lesser maximum penalty for a conspiracy than for the actual charge of possession for supply.

[11] Taking into account then that there is a distinction in the maximum penalties, I have acceded to the view that there should be an adjustment to reflect that in the earlier sentence indication that you were given. I have adopted now a start point of 18 months' imprisonment for the conspiracy, and with the credit that you should have received had that been there and available to you to plead to in June of last year, of some three months for the guilty plea. That brings that sentence back to one of 15 months in relation to the conspiracy charge.

[12] In relation to the more serious charge which involved the 56 grams that was brought back into Christchurch, you were very much active in that. You accompanied the person concerned to Auckland. You were there to ensure that she did uplift the methamphetamine and that she did return, although you were on a different flight to her.

[13] The start point that is appropriate in relation to that is to some extent governed by a tariff decision of *Fatu v R*, [2006] 2 NZLR 72 (CA). That is a case where the Court of Appeal have suggested various bands into which methamphetamine dealing can be categorised. It is accepted that it is in band two of that case with the range of three years to nine years as appropriate sentencing range.

[14] I take the view that you fall to be categorised about the middle of that band and that lesser involvement that Mcmeehan as you were not actively financing the particular enterprise; you were there, as we have remarked, as a minder, and that you were drawn to involvement through the money that you said was to be made as a result of that.

[15] Your lengthy involvement with a named gang is referred to in the report, and I am sure that it was that aspect that was seen as being appropriate and giving muscle to the particular operation that was under way.

[16] Any credit for the guilty plea, of course, must now to some extent be limited as a result of the fact that you did not accept the sentence indication in June/July and the matter was very close to trial when the resolution was reached.

[17] I accept that you have been busy with courses in the prison while on remand. All of that will stand to your credit when you reach the date on which you can appear before the parole board for consideration of release. I made the comment at an earlier time to you in the sentence indication, that I would not be imposing a minimum non-parole period, and so you will have the rights still available to you to meet with the board when you have served one-third of the overall sentence that is to be imposed today.

[18] At 46 years of age you do have a lengthy history of offending, and in itself might have justified an uplift, although I accept that the offending that you have been convicted of in the past has been of a different nature to the offending that is before me today. Equally, the fact that in August you were on bail is another category that would be seen as an aggravating feature requiring an uplift.

[19] Again that I am required to take into account what we term the totality principle, because there will be an accumulation of sentences from the March and the August offending, and that there is therefore to be taken into account the overall totality of the sentence to be imposed.

[20] Today I take for charge two, which is the more serious matter, a sentence of four years six months as the appropriate outcome for that, which takes into account your guilty plea and does not impose any further uplift for the fact that it was on bail that you committed that offence.

[21] There will be a sentence of 15 months imposed in relation to the first offence that occurred, that is the one where I said 18 months was the starting point now, with the credit of three months for the guilty plea.

[22] The end sentence, as I see it, is one of 69 months, or in other terms five years nine months, for the offending, which is still a reduction on what you were given as a sentence indication in June of last year.

[23] That is the overall sentence imposed today. Thank you Mr Mohi.

D J L Saunders
District Court Judge