

**IN THE DISTRICT COURT
AT AUCKLAND**

**CRI-2015-004-005643
[2016] NZDC 3755**

THE QUEEN

v

KA SHING KWONG

Hearing: 4 March 2016
Appearances: B Northwood for the Crown
M Kan for the Defendant
Judgment: 4 March 2016

NOTES OF JUDGE N R DAWSON ON SENTENCING

[1] Mr Kwong, you appear in Court today for sentencing. There are six charges of importing a Class B drug, namely ephedrine, one charge of possession of a Class B drug and a further charge of supplying a Class B drug.

[2] On 28 April 2015 you have entered Auckland on a three month visitor visa. Between 15 and 18 May 2015, you and Mr Jiang discussed importing packages through an encrypted phone application known as WeChat. You told Mr Jiang that the people above have something that needs to be done and that Mr Jiang would be paid some money before receiving the package and again after receiving it. Mr Jiang was to divide the goods into separate amounts and, once divided, an associate would pick them up. Mr Jiang would be paid \$2000 for the first import and \$4000 for subsequent imports, referred to as “batches”. Mr Jiang arranged short term accommodation to receive the importations and you paid the associated costs.

[3] On or about 1 June 2015, you and Mr Jiang imported a large commercial quantity of the Class B drug ephedrine into New Zealand. A consignment of four packages sent from China to New Zealand was selected by Customs at the Air Cargo Inspection Facility for examination. The total weight of the packages was 82.1 kilograms. There were 100 packages and ephedrine was concealed in 99 of those packages. A total weight of 25.07 kilograms of ephedrine was located. That ephedrine would have a street level value of approximately \$2,883,050. You made and received phone calls in relation to the consignment's location and delivery time.

[4] At 4.00 pm on 4 June 2015, police and customs officers delivered the consignment of four boxes which contained a presumptive quantity of 100 grams of ephedrine to an address in Pakuranga. You and Mr Jiang were in an upstairs bedroom when police and Customs arrived. You told Mr Jiang to go and get the boxes and he accepted delivery and signed for the consignment. He used a different name but confirmed the consignment was his. The police executed the search warrant of the address. Both you and Mr Jiang were searched and located upon you was the mobile phone which had the number noted on the consignment and the number the police had been calling to arrange delivery of the consignment.

[5] On or about 26 April 2015, you imported a large commercial quantity of ephedrine into New Zealand. On 22 April 2015 from Hong Kong there was dispatched a parcel which arrived and was processed at the Auckland International Mail Centre on 28 April 2015. The contents of the parcel were declared to be a frying pan but also contained 1.6 kilograms of ephedrine. If sold at street level it could potentially sell for \$184,000. Your mobile phone contained a screenshot image depicting the DHL tracking facility.

[6] On or about 29 April 2015, you imported a large quantity of Class B controlled drug ephedrine into New Zealand. A parcel was dispatched from the Hong Kong Air Mail Centre on 22 April 2015 and it was processed at the Auckland International Mail Centre on 29 April 2015. The contents of the parcel were declared to be frying pans but also contained 6.6 kilograms of ephedrine. That amount of ephedrine could potentially sell for \$759,000.

[7] On or about 1 June 2015, you and Mr Jiang imported a large quantity of Class B controlled drug ephedrine into New Zealand. On 27 May 2015, the Hong Kong Air Mail Centre dispatched a parcel. The contents were declared as hot dog machines but also contained six kilograms of ephedrine at a potential street value of \$690,000.

[8] On or about 2 June 2015, you and Mr Jiang imported a large commercial quantity of Class B controlled drug ephedrine into New Zealand. On 30 May 2015 a parcel was dispatched from the Hong Kong Air Mail Centre. The contents of the parcel were declared to be electric blowers but also contained 8.2 kilograms of ephedrine. That ephedrine would have a street level value of approximately \$943,000.

[9] On or about 5 June 2015, you and Mr Jiang imported a large quantity of ephedrine into New Zealand. On 22 May 2015 a parcel was dispatched from the Hong Kong Air Mail Centre. The contents of the parcel were declared as water baths but also contained 15 kilograms of ephedrine. That ephedrine had a potential street level value of \$1,725,000.

[10] A total of 62.47 kilograms of ephedrine was imported. 25.07 kilograms was seized by the police. 37.4 kilograms was not recovered. 22.4 kilograms was imported prior to your arrest and supply to other people.

[11] I have read the pre-sentence report. I have heard the letter read out to me that you have written to the Court and I have also seen the certificates of the programmes you have undertaken. I have also heard submissions from the Crown and your counsel to consider.

[12] The principal sentencing factors are those of denunciation and deterrence. There is also the protection of the community to consider. The community need to be protected from the spread of well known pernicious drugs into the community. You were actively involved in the importation of a large quantity of drugs into New Zealand and you need to be held accountable for the harm caused by that.

[13] The gravity of your offending is high. The aggravating factors are the large commercial quantity of drugs involved, amounting to a total of 62.47 kilograms with a value of approximately \$5 million. The level of premeditation was high.

[14] In mitigation I do take into account that you are 20 years of age and you have no previous convictions. You also entered a guilty plea at the sentence indication stage which would justify a discount of 20 percent. You have also since expressed your remorse for this offending.

[15] The probation report noted your offending related to factors based around your offending supportive attitudes and your poor decision skills in combination with antisocial peer associations. Your risk of harm to the community is assessed as medium based upon your involvement with the supply of a large quantity of ephedrine into New Zealand. The report confirms your expressed regret for your actions.

[16] Taking into account the submissions that I previously received from the Crown and your counsel and the case of *Wang*, I am of the view that an appropriate starting point is a sentence of imprisonment of nine years. Your guilty plea would reduce that sentence by 22 months. After considering your expressed remorse, your age and the language difficulties that you have as a non-speaker of English and the difficulty that will present for you serving a sentence of imprisonment, I deduct a further 14 months. You are therefore convicted and sentenced to six years' imprisonment.

N R Dawson
District Court Judge