

**IN THE DISTRICT COURT
AT AUCKLAND**

**CRI-2015-004-002496
[2016] NZDC 5095**

THE QUEEN

v

JIAWEN JIANG

Hearing: 24 March 2016
Appearances: B Northwood for the Crown
G Morrison for the Defendant
Judgment: 24 March 2016

NOTES OF JUDGE N R DAWSON ON SENTENCING

[1] Mr Jiang you appear in Court today for sentencing on charges of possession of methamphetamine for supply, the possession of utensils for smoking methamphetamine, and driving while disqualified of being a third or subsequent offence of that kind, and being in breach of your sentence of community work.

[2] I note you are 31 years of age, and you have five previous convictions all for driving matters.

[3] Just after midnight on 10 March 2015 you were driving a motor vehicle on State Highway close to Northcote in Auckland. You were stopped by the police and arrested on an unrelated matter.

[4] At the police station a shoulder bag of yours was searched, it was found to contain 136.4 grams of methamphetamine packed into five bags. There was \$4325 in cash, and scales suitable for the weighing of drugs, a stained glass pipe, and a

black air pistol loaded with pellets. The ESR tests showed the methamphetamine had purity of 79 percent which is equivalent to 107.7 grams of pure methamphetamine. Methamphetamine, of course, is a Class A controlled drug.

[5] At the time police stopped you, you were driving while disqualified, and that is a third or subsequent offence for this offending. On 13 January 2015 you were sentenced to 150 hours of community work, and you have failed to comply with that sentence.

[6] I have read the pre-sentence report and take into account the submissions made by your counsel on your behalf. The first sentencing factor I need to take into account is holding you accountable for the harm caused in the community by the proliferation of methamphetamine. It is well known and documented the damage that this drug causes in the community. For that reason denunciation and deterrence factors are principle factors in sentencing you today.

[7] The main aggravating factor is the quantity of methamphetamine. It shows you being a commercial supplier plus the presence of an air pistol in your possession at the time of your arrest. You have entered a guilty plea at this stage and a 20 percent discount would be applicable.

[8] The pre-sentence report that you are likely to re-offend is assessed as medium and your risk of harm is assessed as low. A sentence of imprisonment is the recommendation due to the gravity of your offending.

[9] In my view your offending for the lead charge of possession of methamphetamine for supply falls within Band 2 of the decision *R v Fatu* [2006] 2 NZLR 72 (CA).

[10] I therefore, adopt the starting point of six years' imprisonment. From that I deduct 15 months for your early guilty plea. You have spent some time on electronically monitored bail, and you are a non-English speaking person which will make serving a sentence of imprisonment hard for you. With those factors I deduct a further three months.

[11] On the charge of possession of methamphetamine you are convicted and sentenced to four years and six months' imprisonment.

[12] Possession of utensils for smoking methamphetamine you are sentenced to three months' imprisonment to be served concurrently.

[13] Driving while disqualified third or subsequent you are sentenced to one month imprisonment to be served concurrently.

[14] You are disqualified from holding or obtaining a driver's licence for 15 months from 18 August 2016 at the end of your current disqualification period.

[15] For the breach and community work charge you are convicted and sentenced to one month imprisonment to be served concurrently.

[16] I am also cancelling your sentence of community work.

[17] I am making orders for destruction of all drug related materials, and also of the forfeiture of the \$4345 in cash.

N R Dawson
District Court Judge