

**IN THE DISTRICT COURT
AT CHRISTCHURCH**

**CRI-2016-009-011876
[2017] NZDC 24628**

THE QUEEN

v

MATTHEW JOHN LINTON

Hearing: 1 November 2017
Appearances: C Lange for the Crown
T Bamford for the Defendant
Judgment: 1 November 2017

NOTES OF JUDGE J A FARISH ON SENTENCING

[1] Mr Linton, I gave you a sentence indication on 2 August 2017 in relation to a raft of charges and, as you have reflected in your letter, they are serious charges: there is unlawful possession of a firearm (x3) which relates to a loaded firearm which was in your possession, a pistol and also a taser (the taser was pretty minor in comparison to the other firearms); there was some ammunition which was capable of being used in those firearms as well; a charge of possession of a small amount of cannabis which was found in the kitchen of the address where you were; a charge of receiving which relates to the pistol that had been stolen on an earlier occasion and, of course, the most serious charge was the supplying of methamphetamine.

[2] As I said to you, I took a starting point of five and a half years in relation to the supplying of methamphetamine (on a very merciful basis, that you were involved

in selling or supplying about 100 grams of methamphetamine). That was what the police could, on a realistic basis, prove at that point in time. I am somewhat sceptical, it was most probably higher but I stand by the sentence indication that I gave you.

[3] I uplifted that sentence in relation to the firearms by 18 months' imprisonment because, in my view, they were very serious and one of them was loaded. In addition, I gave an overall uplift of nine months' imprisonment bearing in mind that in 2012 Whata J sentenced you to almost the same sentence (five years 11 months' imprisonment) in relation to your involvement in the manufacture of methamphetamine which was part of a wider operation, but with credit I came back down to five years 10 months and that is the sentence indication you accepted.

[4] As I said to you when I gave you the sentence indication, there may be further room for limited discounts off that end point. Also I had not made up my mind in relation to a minimum period of imprisonment. Today I need to address those two last matters.

[5] The first is in relation to what further credit is available to you. I read your letter with interest and I have also read the pre-sentence report. One of the things that I was very interested in was what had you done on your last sentence of imprisonment by way of rehabilitation and why had that fallen over so quickly. You do present differently, there are two faces to you. There is this face that is very, very protective of your family, of your children, a man who very much wants to prevent them living the life you have lived and, in particular, in relation to your childhood. On the other side of that, there is this man who makes really bad choices and your addiction to drugs rules your life. It overrules you in relation to your desire to be a better man, a better father and also a partner.

[6] Yesterday, when I was preparing for this sentencing, I was reading through the text messages that the police were able to obtain and particularly some of those from Ms Barker to you where she was making it very clear to you that this needed to stop, your smoking of meth and your dealing of methamphetamine needed to stop. You kept on saying to her, "Look, I love you, I love you," but you were not listening.

Here was the perfect person for you, who is pro-social and was not involved to a large extent in this drug circle and you were dragging her down. You were making bad choices not only for yourself but for other people as well.

[7] When in custody and upon release you have made attempts at reintegration. I note your involvement with Drug-ARM, the letters of support for you. Why I asked Mr Bamford about the Drug Treatment Unit was because you do embrace reintegration options and rehabilitation options. I note that since you have been in custody on this last remand you have also embraced whatever courses are available to you. I can give you a limited credit off that starting point. I am prepared to give you four months' credit, that brings us down to five and a half years' imprisonment.

[8] Mr Bamford also addressed the issue of a further report to try and get to the bottom of why it is that you make many bad choices and what actually drives this addiction, why you need to be using these drugs. I am not prepared to delay the sentencing exercise for that, but I think it would be a very worthwhile report for you to obtain, one, that it might assist the prison in terms of your sentence management but it would greatly assist the Parole Board because I think you and I are realistic, that when you go to the Parole Board they are going to look very closely at any release plan for you and you will have needed to embrace all options and have really worked hard to address some of these factors which lead you to this significant drug addiction. I am not going to delay the sentencing to obtain that report but I can endorse what I have just said, that you need to get one and do your best to address those underlying issues.

[9] The real issue for me, though, is the minimum period of imprisonment and Mr Bamford is realistic. When you have serious drug dealing offending, of which you have now been convicted twice, minimum periods of imprisonment are imposed. That is because for you to be eligible at one third of that sentence would be insufficient to denounce and deter your offending but on the other hand, as Mr Bamford has pointed out, I need to balance the punishment aspect with someone who has, to a certain extent, a sickness, an illness and who does need rehabilitation, but also long-term reintegration. It may well be that you give Odyssey House another try which is going to be a long period of incarceration, to a certain extent, for you because if you do two

and a half years or two years in jail and then look to only be able to go to Odyssey House, you are still looking at another 18 months of detention.

[10] That is a lengthy period of time but I think you need a long-term reintegration programme upon release because I am realistic, prison is not a great environment. You will be hanging out with people that you know very well, there are lots of gang members in there, you are still part of a gang. It is very easy to be involved in projects that will happen upon release and upon release the only people that you know are the people that you have been in jail with. You need some more positive reintegration programmes upon release.

[11] Balancing as best as I can the punishments, the denunciation and deterrence against not only your personal interests but the community's interests as a whole I am going to impose a 40 percent minimum period of imprisonment which means, on my calculation, you will need to do at least 25 to 26 months before you are eligible to go to the Board. Then it will be for the Board to determine what sort of release conditions that you have.

[12] In relation to the firearms, the pistol, ammunition and the taser I have made an order for forfeiture under s 69 Arms Act 1983.

[13] In relation to the drugs, the methamphetamine and the cannabis, I have made a forfeiture order under s 32 Misuse of Drugs Act 1975.

[14] I have not made any orders in relation to \$85,000 found in cash because the police will look to recover that under the Criminal Proceeds (Recovery) Act 2009.

[15] The end sentence is one of five and a half years' imprisonment and I have imposed a minimum period of imprisonment of 40 percent.

J A Farish
District Court Judge