

**IN THE DISTRICT COURT
AT NAPIER**

**CRI-2017-020-000256
[2017] NZDC 25719**

THE QUEEN

v

NORMAN KENNETH GREY

Hearing: 14 November 2017
Appearances: C Gullidge for the Crown
R B Philip for the Defendant
Judgment: 14 November 2017

NOTES OF JUDGE G A REA ON SENTENCING

[1] Mr Grey, you are appearing for sentence on a number of matters. There is making an intimate visual recording of another person between Christmas last year and the middle of January this year, supplying methamphetamine on 11 January this year, cultivating cannabis 24 January this year, being in possession of methamphetamine 24 January this year, then possession of methamphetamine again for supply on 4 May 2017 (that one committed while you were on bail for the first lot) and also on 4 May 2017 you were found in possession of some morphine.

[2] The facts are that sometime in late 2016 to early 2017, you were at an address in [location deleted]. [The victim's mother] lived at the address with [another and their adult daughter]. You did not live at the address at the time, but you were spending a lot of time there. The [age deleted] daughter lived in a sleep-out attached to the

garage. You spent time in the garage, as you used the Internet to download movies there.

[3] On the morning of 11 January this year, [the victim's mother] woke up and decided to go outside and have a cigarette. Seeing the garage door open and the light on, she decided to go and see what you were downloading on your laptop. You were not in the shed. When she looked at some files on the computer, she found movies taken of her daughter in her sleep-out in various stages of undress and on some occasions without any clothes on at all. She found that a camera had been rigged to film through a hole made in the wall between the garage and the sleep-out. When you returned to the address, you were challenged by [the victim's mother] about this. An argument ensued and after a struggle you left with your laptop, leaving the battery and power cable behind.

[4] Next to the laptop was a plastic bag. Inside was 26 grams of methamphetamine and utensils for measurement and consumption of methamphetamine including scales, a straw, a glass pipe and a zip lock bag. That forms the foundation of the first possession of methamphetamine for supply charge.

[5] On 24 January this year, police went to your home address in Hastings and arrested you. On searching the premises, a large cannabis plant and a small cannabis plant were located. A search for drugs was invoked and in a vehicle on the property some 2.9 grams of methamphetamine were located in a small container.

[6] When you were spoken to, you admitted to cultivating the cannabis. You refused to comment on other matters. You were charged with all of the things that you had been apprehended for up until that time and you were granted bail.

[7] While on bail, on 4 May this year at about 11 o'clock in the morning, you were arrested on an unrelated matter. At the police station, you were searched pursuant to your arrest and in the left-hand pocket of your jacket was located a large amount of cash, a straw and two small zip lock bags. In the inside left pocket of the jacket was found a small camera case style of bag and inside that was approximately 10 grams of

methamphetamine, being in a small plastic container, some in a jewellery box and a small amount in a small zip lock bag.

[8] I am aware from submissions made by your counsel that you dispute the amount of methamphetamine on that occasion, saying it was only 8 grams. As I have said to Mr Philip, in the context of this sentencing that is a distinction without any material difference.

[9] In addition, you had in your possession over \$1700 in cash, you were carrying three cellphones and you were found in possession of 10 morphine tablets.

[10] You eventually pleaded guilty to these charges, having received a sentence indication from me. As I said during the course of that sentence indication, the starting point for 36 grams of methamphetamine is five years' imprisonment based on the authorities.

[11] There would be an uplift of six months to reflect the offending committed on bail and your other drug offences that you face, so that takes it up to five years and six months. There is a further uplift of four months to reflect your past convictions which include a number of drug convictions, meaning we get to five years and 10 months.

[12] Lastly, we need to consider the intimate visual recording charge which is entirely separate to the drug offending and warrants, on its own, a sentence of 14 months' imprisonment and that would take the overall level up to seven years.

[13] As I said at the time, when the totality of the offending is looked at, seven years is an excessive sentence and that needs to be reduced by a year to reflect totality. On that basis, the starting point was six years' imprisonment and I indicated to you that if you pleaded guilty you would get a 20 percent deduction and that would give an end sentence of four years and nine months.

[14] Eventually, as I said, with Mr Philip's assistance, you accepted that sentence indication and I obtained a probation report which I have available to me. Some of the material in the probation report is unrealistic in terms of the recommendation.

However, there is helpful material about your personal circumstances and I also have what you have written and what your former partner has written.

[15] I accept that you have your issues in the past and that you had an accident that may or may not have led to you following the path you have over the years, but you have been pretty consistently before the Courts for a number of years now and you are showing no signs of letting up, quite frankly.

[16] In the end, I consider that taking into account the efforts you have made since you have been in prison on remand and the material that has been supplied by your ex-partner and also the contents of the probation report, a further small discount to reflect your personal circumstances can be made. I accept immediately that it can only be small because personal circumstances have a very small role to play in major methamphetamine dealing which this is.

[17] I set the further reduction at four months, so therefore the overall sentence for the methamphetamine supply offending will be four years and five months' imprisonment rather than the four years nine months referred to in the sentence indication. On the intimate visual recording charge, you will be sentenced to 14 months' imprisonment. On the balance of the charges, you will be sentenced to three months' imprisonment on each. All terms of imprisonment are concurrent, making a total of four years and five months.

[18] There is an order for the destruction of all drug paraphernalia that has been recovered on both occasions.

[19] An order for forfeiture of the cash was not requested in the submissions. Since the defence have had no opportunity to address that, I am not making any orders further than I have.

G A Rea
District Court Judge