

**IN THE DISTRICT COURT  
AT HAMILTON**

**CRI-2015-019-004415  
[2017] NZDC 13042**

**THE QUEEN**

v

**CRAIG COLE PRESTON**

Hearing: 19 June 2017  
Appearances: T Clark for the Crown  
C Bean for the Defendant  
Judgment: 19 June 2017

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**NOTES OF JUDGE K B F SAUNDERS ON SENTENCING**

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[1] Mr Preston, you are for sentence on five charges. You pleaded guilty following a sentence indication I gave you on 13 April 2017 to five drug charges; offering to supply methamphetamine, that carries a maximum penalty of imprisonment for life; supplying methamphetamine, again the maximum penalty is life imprisonment; offering to supply cannabis that is a maximum penalty of eight years' imprisonment; possession of a methamphetamine utensil which is one year maximum and possession of methamphetamine for supply which is again a maximum penalty of imprisonment for life.

[2] Methamphetamine is a pernicious drug, Mr Preston. It invades all aspects of society and I address your parents first and foremost. I have no doubt they love you, I have no doubt they support you a thousand percent but ultimately this is not about their support. Ms Clark has put it quite succinctly and fairly. The issue for me is

really whether matters have changed since the sentence indication that would warrant a least restrictive sentence of one other than imprisonment.

[3] Before I turn to the sentence I will repeat the facts in brief. The offending came to light, as I said in my sentence indication, because the vehicle you were seen to be in the driver's seat and had stopped at an address was searched by the police. 3.485 grams of methamphetamine was found in the car in various locations together with digital scales and \$3650. Two methamphetamine pipes were found and a text data analysis of your phone led to the supply of methamphetamine and offering to supply methamphetamine and cannabis charges. The total amount of methamphetamine for the purposes of my sentence is 7.235 grams and the amount of cannabis that was an offer to supply is three ounces.

[4] As indicated in my sentence indication, this offending falls within band 2 of *R v Fatu*<sup>1</sup> and I adopted a starting point of imprisonment for three years and three months. Your previous history for significant drug offending did attract a further uplift. That was an aggravated feature of you. I gave an uplift of six months' imprisonment. Your history which shows your continued offending involving methamphetamine since 2008 some might say may have warranted more of an uplift. In any event that got me to a sentence of three years and nine months' imprisonment. I gave you a substantial discount for a guilty plea together with a discount for time spent on electronically monitored bail.

[5] The end sentence I indicated to you was imprisonment for two years and three months. Now whether or not I could at sentencing further reduce that sentence and impose a least restrictive sentence which would be one of home detention would depend very much, as I made it clear to you Mr Preston, on matters that could be seen to be further favourable and set out in the pre-sentence report.

[6] Mr Bean on your behalf strongly submits that I should not take at face value the statement in the pre-sentence report where you are said to have appeared to show no remorse for your offending. He says that I ought to view that in light of the fact that you are shy, you do not express yourself well to strangers but that in fact it is the

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<sup>1</sup> *R v Fatu* [2006] 2 NZLR 72 (CA)

opposite and you are extremely remorseful for your offending. You have been drug-free now for over 18 months which is the time that you have been on electronically monitored bail.

[7] There is no doubt in my mind whatsoever Mr Preston that your parents are an extremely positive influence in your life and just as I did at the sentence indication I have also read yet another letter from them and from your siblings expressing their love and support for you and I have also read the letter that you yourself have written to me acknowledging that you have made mistakes in the past but that you have now put that behind you and you will not re-offend. You want to get back to work and be a positive member of society.

[8] Mr Bean does stress the fact that you have been on electronically monitored bail for some time. That involved a period of community detention that was for all intents and purposes really of no value to you in terms of being able to leave and to look at further programmes. He says that you do appreciate what you have lost, the harm to your family and rehabilitation is to the fore.

[9] Ms Clark on the other hand submits that there has been nothing further that would warrant a further reduction to the sentence that I indicated. She says that you have squandered the support and love that your family show for you and to an extent that must be so because you are not a first offender. You have since 2008 committed serious drug offending and really it has taken nine years or so for you to accept that that simply cannot continue. Ms Clark does not shy away from her interpretation of the sentence in the pre-sentence report that you show no remorse and points to you somehow justifying your sale of methamphetamine on the basis that you would be selective of who you sold the drug to and she is somewhat sceptical about your ability to remain drug-free.

[10] As I have said, Mr Preston, the issue really for me is whether matters have further improved so that I could give a further reduction by way of mitigation to get me to a sentence of two years or less which would allow me to consider a sentence of home detention as being the least restrictive sentence. Mr Preston, I have thought long and hard about this and particularly from the perspective of your parents but

Ms Clark is right, it is not their perspective that is paramount here, it is your culpability for this offending and whether a least restrictive sentence of home detention, were I to give you a further reduction of three months, would meet your culpability.

[11] Mr Preston, I am not satisfied that matters have changed since my sentence indication that would warrant further reduction in mitigation. The support that your parents have is expressed in the same manner as it was back in April and, while I have your letter of remorse and I do thank you for that, it does not warrant the reduction to a sentence of two years or less so that I can consider a least restrictive sentence.

[12] That means Mr Preston that the sentence I impose on you is as follows. On all charges except for charge 3 and charge 4 you are convicted and sentenced to imprisonment for two years and three months. I do not impose any conditions of release. That is a matter for the Parole Board. On charge 3 you are sentenced to imprisonment for six months concurrently and on charge 4 you are sentenced to imprisonment for three months concurrently. I make an order for destruction.

[13] I realise Mr Preston that you see that as a step backwards. All I can say to you is that if your remorse and desire to remain drug-free is a real submission, then you will come out at the end of your sentence and will continue to remain drug-free and with the support of your parents can become a positive member of society.

[14] There is forfeiture of the cash.

K B F Saunders  
District Court Judge