

**IN THE DISTRICT COURT
AT HAMILTON**

**CRI-2016-019-008135
[2017] NZDC 24419**

THE QUEEN

v

DAVID LEON RUEBENS

Hearing: 30 October 2017
Appearances: J Tarrant for the Crown
K Burroughs for the Defendant
Judgment: 30 October 2017

NOTES OF JUDGE R L B SPEAR ON SENTENCING

[1] David Ruebens you are for sentence on one charge of supplying methamphetamine, another of offering to supply methamphetamine and a third charge of possession of methamphetamine for supply. Those are as detailed in a Crown charge notice of 25 July 2017.

[2] The matter came before me on 4 September 2017 for a sentence indication hearing. In a decision given that day, I indicated that, with 20 percent off for a guilty plea, an end sentence of three years two months would be appropriate. That was the sentence indicated and the sentence you subsequently accepted.

[3] It is unnecessary for me to go over the full details of the offending again as they are detailed in the decision I gave on 4 September 2017. Suffice it to say that the police undertook a search of your property on 21 December 2016. Your co-offender

and you were found smoking methamphetamine. There was approximately seven grams of methamphetamine contained in small snap lock bags of the type used to supply the drug, empty bags of the same type, cash of just over \$3000 and some methamphetamine residue in a small snap lock bag. There were also some MSM pills of the type used to cut the methamphetamine and a set of electronic scales.

[4] When the police undertook an analysis of the phone data on the phones, it became apparent that you had been dealing actively in methamphetamine for about the previous eight days. The amount involved that you actually offered to supply was about five grams and with the seven grams in the bags at your property that brings it up to about a 12-gram level.

[5] You accepted that you were the principal offender between the two of you. At least, you did at the time of the sentence indication hearing although I note, in the probation officer's report, that you attempted to diminish your role by blaming your co-offender stating that you had told her not to deal and claimed that she was the main offender. This appears to be at odds with reality because what is abundantly clear is that you are an addict of many years standing, that you have a raging methamphetamine habit, and the way that you provide yourself with the drug of your choice is to deal in it.

[6] You have a significant number of previous convictions for drug offending. Indeed, almost all your convictions are for dealing going back to 2014 when you received home detention for supplying methamphetamine. You have since been convicted on that same charge or for possession of methamphetamine, for possession of methamphetamine for supply and possession of LSD. Your last conviction before this was for possession of methamphetamine in 2016 for which you received community work and supervision. You have got well over 100 hours of community work still to do and there is no dispute that you did not commit yourself to that sentence at all. Probation seeks to have that sentence of community work cancelled and that is appropriate and that order is made.

[7] One of the difficulties with those who come before the Courts and say that the only reason they deal is to generate sufficient cash to be able to feed their habit is that

it has the potential, if not the actuality, of creating more addicts so as you suck more people into the vortex of your life or lifestyle. You do this without regard for others and just for the purposes of feeding your drug habit.

[8] It is abundantly clear that the only sentence that I can impose on you today is one of imprisonment. That was the sentence indicated and it is the sentence that is in line with the authorities that counsel assisted me with at the sentence indication hearing. Of perhaps some positive note is that Probation considers that you are eligible for the department's drug treatment unit and a medium intensity rehabilitation programme.

[9] I have received several letters about you. You have written yourself. Your [young child] has written to me. Your mother has written to me and other people have written indicating that you appear in all other respects to be a good person. But you have this horrible habit with methamphetamine and until that is addressed, you will remain something of a scourge to this community because the only way you are ever going to be able to afford to acquire methamphetamine is by resorting to dishonest means; either dealing or stealing. Unless you get your drug habit under control, and I appreciate it is a very longstanding drug habit, I fear for your future. I am concerned as to what will become of you. No doubt that is also the case with your family.

[10] Having regarding to the sentence indication on the charge of supply of methamphetamine you are sentenced to three years two months' imprisonment. On each of the other charges two years' imprisonment. They will be served concurrently, that is together, and your existing sentence of community work is cancelled.

[11] I make an order that is not opposed for the forfeiture of the \$3,142.90 in cash that was found in your possession at the time of the police search and for the destruction of all the drug paraphernalia.

Judge RLB Spear
District Court Judge

Date of authentication: 08/11/2017
In an electronic form, authenticated pursuant to Rule 2.2(2)(b) Criminal Procedure Rules 2012.