

**IN THE DISTRICT COURT
AT AUCKLAND**

**CRI-2017-004-007167
[2017] NZDC 25907**

THE QUEEN

v

PETER VAJDA

Hearing: 16 November 2017
Appearances: A McConachy for the Crown
M Ryan for the Defendant
Judgment: 16 November 2017

NOTES OF JUDGE D J SHARP ON SENTENCING

[1] Mr Vajda you are for sentence today for misleading the Immigration. Maximum penalties for such offences is seven years' imprisonment and significant fines. As you have heard from your counsel you do not find yourself in the most serious category. The ranges which have been proposed for sentence starting points range between a high end of 18 months and a low end of 12 months. As you know you have already served a significant term of imprisonment. So it is unlikely that today you are going to reach a position in having significant further time in custody to spend.

[2] Notwithstanding that I am obliged to bring home to you the seriousness of your situation. You know that in the past you have been engaged in forms of offending which I understand that you recognise as serious. That means that when you apply for

entry disclosure is a necessary part of your position. To mislead Immigration and other people bring serious penalties. If that had been coupled with actual offending on your behalf, then we would be having a different discussion about what I would be obliged to do in terms of sentencing.

[3] I have to apply some deterrence to ensure that the requirements for honesty and appropriate documentations met at the border, and that is something that is important in this particular case.

[4] The types of offences which you were convicted of in the past are serious in other jurisdictions, and if you are serious about what your counsel has said about recognising this then you are going to need to do some rehabilitation to put yourself in a position where you may be able to change your status and your immigration position, but that will have to be on the basis of full disclosure. Your record here at least will record this, and that is a factor that you would also need to address.

[5] I have to pick a starting point for the offending. I have to consider the circumstances of the offending, what makes it more serious, but as I have said it is not in the most serious category. There are other authorities which have been referred to by your counsel and the Crown such as *R v Khan*¹ which set out the factors that need to be taken into account.

[6] Having considered that position I would take a view that 18 months is an appropriate starting point for sentence. From that I see nothing within the circumstances of offending which would require me to reduce the sentence, but turning to you have carried out some courses and done some things which are consistent with rehabilitation while you have been in custody. I will reduce the term of imprisonment by two months in respect of the steps that you have taken which indicate goodwill, and I recognise that you have got family elsewhere who have you concerns about. That would take the sentence to 16 months.

[7] I will be prepared to allow you to the full 25 percent. Your plea was at a relatively early stage. That takes the sentence to one of 12 months' imprisonment. I

¹ *R v Khan*

am aware that there is an order for your deportation at the conclusion of your sentence, and for that reason although the sentence is in the range in which I can apply post-release conditions, I decline to do so in your case, which means on the conclusion of your sentence having served 50 percent of it you will be eligible for the deportation order to be carried.

[8] Accordingly, your sentence is one of 12 months. There are no release conditions, and I will expect that in a month and you will have the deportation, and give you a chance to reconsider your position, reunite with your family, and consider what your steps will be in the future with regard to Immigration, and other matters. But take care because your record will reflect the fact that you have had this sentence.

D J Sharp
District Court Judge