

**IN THE DISTRICT COURT
AT PALMERSTON NORTH**

**CRI-2017-054-000877
[2017] NZDC 26203**

THE QUEEN

v

PAUL RAYMOND JENSEN

Hearing: 17 November 2017
Appearances: T Tran for the Crown
P Drummond for the Defendant
Judgment: 17 November 2017

NOTES OF JUDGE S B EDWARDS ON SENTENCING

[1] Paul Raymond Jensen, you are for sentence on charges of possession of the Class A drug methamphetamine for supply and unlawful possession of a restricted weapon.

[2] On 16 March this year police executed a search warrant at your home address. There was a closed circuit television camera facing down the driveway that leads up to the house. You were at home. When police arrived you went into a lean-to structure built into the back of the lounge. They found white crystal-like particles scattered over the floor of the lean-to and then, amongst furniture in that structure, various plastic zip lock bags, pill bottles and other containers each containing small amounts of methamphetamine. There was also a larger plastic zip lock bag which contained 105.7 grams. The total weight of methamphetamine found was 124 grams.

[3] Police also found other indicators of commercial dealing. In addition to the CCTV camera there were a large number of snap lock bags in various sizes, electronic scales and cash of various denominations totalling \$1575. They found a home made taser on a bedside table in your bedroom. It was able to be immediately activated.

[4] When you were taken to Palmerston North Hospital for treatment for a wound to your leg the following day you were found to have a small container on you with another gram of methamphetamine in it.

[5] At a sentence indication hearing held on 3 October the Crown and your counsel, Mr Drummond, were not far apart at all in their submissions on the appropriate starting point range. They agreed that this offending falls within band 2 of the Court of Appeal's guideline judgment in *R v Fatu*¹ and that the quantity of methamphetamine, together with the other indicators of commerciality, should attract a starting point in the vicinity of six years' imprisonment. I agreed with that assessment and that was the indicated starting point for the methamphetamine offending that I gave you.

[6] I indicated an uplift of three months for the taser on a totality basis. The uplift perhaps could have been higher but I took totality into account and also I took into account the fact that I included the taser as one of the indicators of commerciality in assessing the appropriate starting point for the methamphetamine offending and there is a need to avoid double counting.

[7] There was some discussion at the sentence indication hearing about whether your significant history of drug related offending warranted an uplift to that overall starting point of six years and three months' imprisonment. Mr Drummond noted then that while you have numerous drug possession convictions on your record, the most recent being in 2013 when you received two months' home detention for possession of methamphetamine, your only conviction for supply of drugs, which related to morphine, was from almost 30 years ago in 1988. The majority of your possession convictions have attracted fines, orders to come up for sentence if called upon and low-level sentences of that nature.

¹ *R v Fatu* [2006] 2 NZLR 72 (CA).

[8] I determined at the sentence indication hearing that the question of an uplift is best dealt with by way of a balancing exercise. Mr Drummond submitted that some downward adjustment might be available to the starting point to reflect the fact that a quantity of the methamphetamine found at your house would have been for your personal consumption. Your longstanding addiction to methamphetamine supports that inference. I remain of the view that your previous convictions and the personal use issue in effect balance each other out and there should be no uplift or reduction to the starting point.

[9] It is clear from your history that you have a severe addiction but to my mind it does not mitigate the offending in terms of the starting point as it must be borne in mind that you have been given opportunities to address it in the past and previous sentences have not deterred you from the use of drugs, methamphetamine in particular. I noted that an addiction to methamphetamine almost inevitably leads to dealing because of the cost of that drug.

[10] However, at the sentence indication I left open the issue of whether there would be any discount available to you at sentencing for rehabilitative efforts, noting that any discount could only be for any concrete or confirmed efforts given your extensive history.

[11] I now have a pre-sentence report in front of me which assesses you as showing both remorse for, and insight into, your offending and your longstanding addiction. You have also written an insightful letter acknowledging the harm that your use of, and dealing in, methamphetamine has caused to you, your family and the wider community.

[12] To use the probation officer's words, you blame no one but yourself for the circumstances you are in. You acknowledge a lengthy sentence of imprisonment is an appropriate consequence and you said that you saw imprisonment less as a punishment and more of an opportunity to sort your life out. You have indicated a willingness to participate in any rehabilitation programmes you are offered.

[13] This insight, a change in your attitude and recognition that you must address your addiction issues is supported by comments in the pre-sentence report made by your mother who says that she has seen changes in you since she has been visiting you in prison recently which, to use her words, “Fill her with hope and happiness”. She said you are looking the most healthy she has seen you in years and saying things that suggested you are thinking more clearly and acknowledging the need to engage in, and co-operate with appropriate addiction treatment and counselling.

[14] I consider that your remorse, insight and willingness to address your own addiction does warrant a discount and I am allowing a six month reduction from the six year and three month starting point. This reduces the sentence to five years and nine months’ imprisonment. Then, with the full available discount for your guilty pleas, and there is no dispute you are entitled to that, the end sentence is reduced to four years and four months imprisonment.

[15] Mr Jensen, on the charge of possession of methamphetamine for supply you are sentenced to imprisonment for four years and four months. On the charge of unlawful possession of a restricted weapon you are sentenced to three months’ imprisonment. That sentence is concurrent, it does not add to the total. I am not imposing any release conditions, Mr Jensen, with a sentence of that length the date of your release and any parole conditions to apply will be determined by the Parole Board.

[16] I direct forfeiture of the cash of \$1575 seized on your arrest.

S B Edwards
District Court Judge