

**IN THE DISTRICT COURT
AT ROTORUA**

**CRI-2017-077-000743
[2018] NZDC 1755**

THE QUEEN

v

MOREHU TEHIKO

Hearing: 2 February 2018
Appearances: A Hill for the Crown
C Tuck for the Defendant
Judgment: 2 February 2018

NOTES OF JUDGE A J S SNELL ON SENTENCING

[1] Mr Tehiko, you are for sentence today in relation to two representative charges of supplying methamphetamine. The maximum penalty on both of those charges is life imprisonment. You also have a representative charge of supplying cannabis oil, which has a maximum penalty of 14 years imprisonment, and of selling cannabis, which has a maximum penalty of eight years imprisonment.

[2] The factual circumstances and a sentencing indication were given to you on 15 November by me when you last appeared in front of me. That sentencing indication comprehensively goes through the factual background of this matter, and a sentencing indication of a start point of three years and 10 months on the methamphetamine charges, based on a band 2 *R v Fatu*¹ analysis would be appropriate. There would be an uplift of six months for the cannabis related offences, both the Class B and Class C, leaving you with a total of four years, four months before deductions.

¹ *R v Fatu* [2006] 2 NZLR 72.

[3] I direct that in terms of your sentencing today, that that sentencing indication be annexed to my sentencing notes. I do not intend going through all of the matters that I have raised in the sentencing indication with you. You are familiar with them.

[4] What you are also familiar with is that your partner, who was jointly charged along with you, Ms Nicole Carter, is having a disputed fact hearing today. In the course of reading the Crown submissions relating to the disputed fact hearing, it appears that some other matters that I was unaware of and that were not contained in the summary of facts have come to light. That included the use of your children on occasions to deal the methamphetamine. That appears to be an admission by your partner, and that was not contained in the summary of facts.

[5] I make it clear that that fact alone would have led to a significantly higher starting point for you on these matters than what I adopted if I had known about it at the time.

[6] I have thought very carefully about what I do about this situation. I could abandon the sentencing indication based on the new knowledge that I have about the case, which was not put before me when I gave you your sentencing indication, and I could give you a further sentencing indication. I consider that that would be quite unfair to you, and what I do intend doing is standing by the sentencing indication that I gave you and sentencing you on the basis of the summary of facts that you pleaded guilty to, that did not contain that information.

[7] However, I want it to be publicly known and known to you, in particular, that the involvement of children in methamphetamine dealing in any form is a very significant aggravating feature and would have resulted, if it had been known at the time and if it was part of the summary of facts that you had had your sentencing indication given on, would have led to a much higher starting point.

[8] Having said that, I am bound by the sentencing indication. I think that is the only fair way to proceed today. You are entitled to be sentenced today and I do so on the basis of the sentencing indication given to you, and also on the basis of the

pre-sentence report that I have received, and the letter that I received from you, through your counsel, annexed to your counsel's submissions.

[9] I take on board the matters raised in your letter, and there is no doubt that you have your own personal difficulties and demons that you are dealing with. The recommendation in the pre-sentence report indicates and touches on some of those matters, which I am not going to raise in Court, and makes some recommendations in relation to those and how you may overcome them. I hope that you have taken the time to go through that report. While it is not an in-depth report, it does offer you some assistance and the way forward for you.

[10] I disagree with your counsel in only one matter and that is that the remorse that I accept that you are remorseful that you express, I do not think justifies any further discount than the 25 percent discount that you will get for your pleas. There is a component of that 25 percent discount that is related to remorse and I do not think that it should be any more than that.

[11] On that basis, applying that 25 percent discount, your starting point of four years and four months will be reduced by 25 percent, which is the equivalent of 13 months or one year and one month, and your final sentence on these matters in relation to the methamphetamine charges will be three years and three months imprisonment. You will have lesser sentences of six months imprisonment imposed on the two cannabis related charges, served concurrently, meaning the total sentence is one of three years, three months imprisonment.

A J S Snell
District Court Judge