

**IN THE DISTRICT COURT
AT WAITAKERE**

**CRI-2017-090-003422
[2018] NZDC 3220**

NEW ZEALAND POLICE
Prosecutor

v

RYAN MARK CORLESS
Defendant

Hearing: 21 February 2018

Appearances: B Finn for the Prosecutor
S Cullen for the Defendant

Judgment: 21 February 2018

NOTES OF JUDGE J JELAS ON SENTENCING

[1] Mr Corless, you are here today aged 31 having accepted an indication of what the final sentence would be from Judge Thorburn on 22 November 2017. Judge Thorburn indicated to you that the final sentence, if you were to plead guilty, which you did, would be three years 11 months' imprisonment but he acknowledged that there may be additional factors that would come after the sentence indication hearing which would warrant further credit being given to you. The charges that you have pleaded guilty to and will be sentenced on, include drug offending.

[2] In July 2017, there was a police investigation into manufacturing for methamphetamine. This appears to have been prompted by the police coming to your address on 7 July after an emergency call was made and because your brother, who will be sentenced shortly, had suffered burns to his body as a result of an explosion.

When the police arrived there was a strong chemical odour to the address which naturally alerted them to the possibility of illicit drugs being manufactured.

[3] In the initial search police discovered what is known as a parr bomb, a device used commonly in the manufacturing of methamphetamine. That parr bomb later tested positive for the substance inside it. During the search there was further equipment located, used in the manufacturing process. These were located primarily in a back pack in the garage in a converse brand bag that was found in the lounge. The items included a steam distiller, a glass saucepan, a PHD meter pen, a hot plate, coffee filters, wooden skewers, funnels, empty containers of caustic soda, acetone and Pure Dew water. The distiller, saucepan, PHD pen and hot plate all later tested positive for the presence of methamphetamine.

[4] A further search of the property located a three foot cannabis plant growing at the rear of the address and in your possession, located on top of a dresser in the main lounge, was 53 mils of the Class B drug known as Fantasy and in the same dresser a plastic snap lock bag containing .358 grams of the Class A drug cocaine.

[5] As a result of what was located at the address there was examination of phone records and of the phones attributed to you, the police were able to identify on six occasions between mid-June and mid-July where you offered methamphetamine to others, the total amount offered was 2.6 grams.

[6] From those phone records between 14 May and April, there was evidence of you offering to supply the Fantasy drug. There were three occasions on which you offered to supply eight mils of the drug. There was also an incidence on 20 May where you supplied Fantasy to another person who was identified as Leah and six mils was supplied.

[7] The Department of Corrections have prepared a report about you to assist with the sentencing process and while you are a recidivist offender with a criminal history, this is your first significant drug offending, and you were frank with the probation officer acknowledging that you had been lucky that you had not been caught with drugs before this time. You have been a daily user for a long period of time and it is

that use over time and your addiction to it that has in part fuelled the need for you to become more involved in drug offending as is reflected in these charges.

[8] To the probation officer, you expressed what the officer interpreted as regret for your offending, particularly as a result of having involved to some extent your younger brother, who as I have said will be sentenced shortly. You are attempting to encourage your brother to consider rehabilitative programmes so this type of offending does not become the norm for him. A real factor, of course, in contributing to this offending has been your drug use which you state was from a young age of 17 and your dependency on it.

[9] In terms of other factors, it is noted that you have not had a strong father figure in your life and that you have had the negative influence of a close family member who was himself a drug manufacturer. His role modelling on you was a significant influence and when you were particularly young you viewed his lifestyle as cool and impressive.

[10] As Judge Thorburn stated to you at the sentence indication hearing, he considered that the overall starting point for all of the offending was five years' imprisonment. He uplifted it by three years having regard to the fact you had previously committed criminal offences and then he awarded you a discount of 25 percent for pleading guilty. A discount is given because it reflects taking responsibility and an element of remorse and it also saves the system the time and effort of having to prove these charges against you. In my view that level of credit was generous, as in my view some criminal responsibility would inevitably have flowed from the background circumstances of these charges.

[11] Today Mr Cullen on your behalf seeks additional credit and has provided to me the additional evidence of your ongoing attempts to take up whatever opportunity is available for you in prison to examine why it is that you were there. I note considerable information was also given to Judge Thorburn and I make sure Mr Cullen gets back some of your certificates so you can keep them.

[12] I have also received information that you will be part of the recently announced Royal Commission of Inquiry for those who suffered abuse in the state care. I accept Mr Cullen's submission that a disrupted childhood where abuse has been sustained may also be a contributing factor to the lifestyle that you have exhibited to date.

[13] I accept Judge Thorburn left open the possibility of further credit being given and a small level of further credit will be given of three months for your ongoing efforts to try and make a real difference and lead a different lifestyle on release.

[14] So, as I have said the starting point is five years' imprisonment. It was uplifted by three months. Given your prior history, a reduction of five months will be given for your continuing rehabilitative efforts and then the 25 percent will be given for your guilty pleas. That reduces the overall end lead sentence from what was initially three years 11 months down to three years eight months.

[15] So, turning to the charges on which you are to be sentenced set out in the Crown charge notice of 22 November 2017 on charge 1, manufacturing methamphetamine, the lead sentence of three years eight months' imprisonment.

[16] On charge 2 which relates to the possession for supply of the Fantasy drug, one year six months' imprisonment.

[17] On the charge 3, possession of cocaine, one year six months' imprisonment.

[18] On charge 4, the cultivating of cannabis, one year's imprisonment.

[19] On charge 5, the supply of Fantasy, one year six months' imprisonment.

[20] On the charge of methamphetamine supply, one year six months' imprisonment.

[21] On charge 7, the final charge, supplying Fantasy, one year six months' imprisonment.

[22] All those sentences are to be served concurrently, that means at the same time, so it is the lead year of three years eight months' imprisonment which is the total length that is imposed today. That is your sentence.

J Jelas
District Court Judge