

**IN THE DISTRICT COURT
AT WAITAKERE**

**CRI-2016-090-005445
[2018] NZDC 3237**

NEW ZEALAND POLICE
Prosecutor

v

TANE GEORGE CORLESS
Defendant

Hearing: 21 February 2018

Appearances: B Finn for the Prosecutor
C White for the Defendant

Judgment: 21 February 2018

NOTES OF JUDGE J JELAS ON SENTENCING

[1] Tane Corless, you are 20 years old and you are the younger brother of Ryan Corless who I have just sentenced for his involvement in substantially the same circumstances from which your offending arises.

[2] While there is some overlap between the offending that you have both admitted responsibility for, there were also some differences. It is therefore important I recount the factual background on which the charges are based that you have accepted responsibility for.

[3] On 7 July 2017, emergency services were called to your home address because you had suffered burns and needed urgent medical attention. When the police came to the address there was a strong chemical odour present which naturally alerted them to the possibility of manufacturing of illicit substances. The address was searched and

a parr bomb was located. Parr bombs are commonly used in the manufacturing process for methamphetamine. Later testing of the parr bomb identified methamphetamine was inside it.

[4] During a further search of the premises there were two bags, one in the lounge and one in the garage, containing items commonly used in the manufacturing process which indicated this was a mobile manufacturing clandestine laboratory. Those items included a steam distiller, a glass saucepan and a PHG pen meter along with a hot plate. All of those items had methamphetamine detected on them when samples were later analysed. There were also coffee filters, wooden skewers, funnels, empty containers of caustic soda, acetone and Pure Dew water. Analysis of fingerprint samples taken from items identified your fingerprints found on one of the three red funnels.

[5] The police then carried out further inquiries which included examination of records of cellphones attributed to you. The phone records evidenced there were three occasions between June 2016 and July 2017, where you had offered to supply the drug cannabis to others. In total, you had offered to supply at least three ounces of cannabis.

[6] During that same period there were also five separate occasions when you offered to supply methamphetamine to associates. On two occasions you actually supplied a total of .6 grams of the drug.

[7] Again, during that same period, there were six occasions where you offered to supply the Class B controlled drug Fantasy and one occasion during this period, being 18 May 2017, when you had possession of 100 mls of Fantasy for the purpose of supplying others.

[8] After the police were called to your home you spoke with an associate on 13 July 2017 and you also gave him a note. You requested your associate lie to the police about where you had been and how you had received the chemical burns that caused the emergency services to come to your home. You did this in an attempt to thwart the police investigation. Your associate did as you requested and initially provided a false statement to the police but later he retracted his statement. In addition

to the drug offending there is also a charge of attempting to pervert the course of justice.

[9] In addition there are two earlier police prosecutor charges. On 1 October 2016, you were spoken to by police. A .77 pellet airgun rifle was found in your possession along with glass pipe commonly used to consume methamphetamine. Therefore, the more substantive charges on which you will be sentenced today was offending committed while you were on bail for those two earlier charges. Your apprehension and arrest and charging on the two earlier charges was also the opportunity for you to examine your involvement in drug offending. Unfortunately, it did not have that effect and it had continued and hence we have the charges before the Court.

[10] The Probation Service have met with you and prepared a report about you. You have been frank and open with the report-writer, referring to your drug use from a young age and the involvement of both an uncle and of your brother in the manufacturing of methamphetamine. To some extent your own reliance on drugs for your own personal consumption and the involvement of others has led to your offending. You need to finance your own personal drug use by selling to others and then ultimately being involved in the manufacturing process.

[11] You frankly acknowledge to the report-writer the personal cost this offending has caused you. You acknowledge the loss of your girlfriend and the effects this offending is having on your mother.

[12] The report-writer assesses you as having a high motivation to address the underlying causes of your offending, to look at your drug use and your interconnected gambling addiction. Overall it is a positive report and your high motivation to move away from this lifestyle is reflected in the numerous certificates of programmes that you have been able to undertake while you were in custody, some of which include the Kairology programme and programmes that have been offered by the Hope Channel and the group, Oceania. You have met with drug counsellors on the Wings Trust and Higher Ground.

[13] There is also your letter to me. You acknowledge that only you are the person responsible for and to blame for this offending. You make that acknowledgement regardless of your upbringing which included significant amount of drug abuse and illegal activities and antisocial behaviour. Despite being aware of those influences you still take full responsibility for your offending which in my view is a significant step towards moving away from your past lifestyle.

[14] You also state that you want a more positive lifestyle for yourself in the future and again you are insightful knowing that it is not only others that you owe it to but also to yourself. Thank you for your letter.

[15] Written submissions have been filed by both the Crown and Mr White on your behalf today. Everyone acknowledges that the starting point sentence must take into account the most significant charge which is the manufacturing charge. Unlike your brother, you are charged with manufacturing on three separate occasions, a total of 28 grams of methamphetamine. It was for a relatively short period but it was using a mobile clandestine laboratory which is far more difficult for the authorities to detect.

[16] The starting point for that charge only for your brother was four years' imprisonment. You however have more serious manufacturing offending before me. the starting point I intend to adopt is one of four years 10 months' imprisonment.

[17] There is then the other drug offending that was detected through the examination of your phone data and from which it showed your possession and offering to supply cannabis, methamphetamine and the Class B substance Fantasy, also known as GBL.

[18] I consider an uplift for the other drug offending, much of which is representative charges and covers all class of illicit drugs, A, B and C, to be 12 months. That brings the nominal starting point to five years 10 months' imprisonment.

[19] There is the additional charge of perverting the course of justice. I consider that there should be a discrete uplift for this charge. It is quite separate and different in kind to the drug offending. Further I consider that discrete recognition should be

given because it was a blatant attempt to disturb the processes of the administration of justice and is to be deplored. That offending took effect six days' later after the police had searched your address. You not only spoke to your friend but you wrote instructions to him. What you said to him and what you wrote to him caused him to make a false statement to the police. That offending therefore involved in my view elements of premeditation and was significantly forceful enough to result in your associate complying with your request. I acknowledge however that the false statement did not hamper the police investigation to any great extent and was retracted by your associate a short while later.

[20] However, it is significant offending and as the Court of Appeal have previously acknowledged in the *Churchward*¹ decision that these types of offences are normally going to have imposed a moderate to lengthy term of imprisonment. In my view an uplift of eight months should be imposed for that offence bringing the nominal starting point to six and a half years' imprisonment.

[21] I then considered whether there should be some totality adjustment at this point but I do not consider having regard to all of the offending before the Court that any downward adjustment should be made.

[22] There are two factors for which you are entitled to a significant amount of credit. The first is your youth and your attempts to rehabilitate and your motivation to rehabilitate. You are 20 years old. This is the first time you will be sentenced by the Court.

[23] You have been involved in the drug world from an early age and it is clear from the background facts that I have that you have had exposure while in the family home to the presence of drug use and illegal activities associated with drugs. Through that exposure by family members and friends, your use and involvement in drug activities have been normalised.

[24] Your letters I have mentioned, while it is an acknowledgement of your personal responsibility for which I congratulate you on, I myself cannot ignore the negative and

¹ *R v Churchward* CA439/05, 2 March 2006.

persuasive influences of those factors. If they had not been present in your upbringing you may not be before the Court today in the way that you are. I accept that is difficult for someone as young as yourself to ignore negative influences when you have those closest to you encouraging your involvement.

[25] I acknowledge when I give you discount for youth that this is serious drug offending and the case law is clear that personal circumstances carry less weight when there is serious offending before the Court. However, you have had the negative influence of older members of your family and the absence of a father role model in your life. I am therefore prepared to give you credit for your youth.

[26] I will also give you a level of credit for the rehabilitative steps that you have taken yourself while in prison and the frankness by which you spoke to your probation officer. To me given the right resources, opportunities and surrounds when you are released from custody, you will make as best effort as you can to turn your life around.

[27] For all of those factors a 20 percent discount will be given to you. That brings down the starting point sentence from 78 months' imprisonment down to 63 months.

[28] The final level of credit that you will be given will be for your guilty plea. Guilty plea credit is given because it shows that you take responsibility, there is an element of remorse and it also saves the police and the Crown having to prove these charges against you. Twenty-five percent credit will be given bringing down the end sentence to one of three years 11 months' imprisonment.

[29] There is the final two charges which I have not yet dealt with which is the first charges you were ever charged with, the possession of the pipe and the gun. There will be an increase of one month to account for those two charges resulting in an end lead sentence of four years' imprisonment.

[30] So, your sentence is on these charges will be as follows:

- (a) On the charges set out in the Crown charge notice of 21 November 2017, on charge 1 of manufacturing methamphetamine, four years' imprisonment.
- (b) On charge 2 of attempting to pervert the course of justice, a concurrent sentence. So, that means at the same time of eight months' imprisonment.
- (c) On charge 3, which relates to offering to supply cannabis, 10 months' imprisonment.
- (d) On charge 4, offering to supply methamphetamine, a representative charge, two years' imprisonment.
- (e) On charge 5, supplying methamphetamine, one year imprisonment.
- (f) On charge 6 and 7 which relate to your possession and offering to supply Fantasy drug, the Class B drug, both one and a half years' imprisonment.
- (g) As I have said, all prison terms are concurrent and on the possession of the firearm and the pipe, each of those again concurrent sentences of three months' imprisonment.

[31] You have outstanding fines totalling \$2351. All fines will be remitted and I will impose a cumulative sentence of seven days' imprisonment.

[32] Your end total sentence is four years seven days' imprisonment. That is the outcome today.

J Jelas
District Court Judge