

**IN THE DISTRICT COURT
AT LEVIN**

**CRI-2017-031-000941
[2018] NZDC 5009**

THE QUEEN

v

HEMI PAKI POPE

Hearing: 14 March 2018

Appearances: K van der Plas for the Crown
S Hewson for the Defendant

Judgment: 14 March 2018

NOTES OF JUDGE J D LARGE ON SENTENCING

[1] Hemi Paki Pope, appears for sentence today on eight charges, four relating to drugs. The Crown appear in respect of those matters. Others are two charges of supplying methamphetamine, one charge of offering to supply methamphetamine and one charge of offering to supply cannabis. In addition, there are two charges of male assaults female, one charge of possession of an offensive weapon and one charge of threat to kill.

[2] Mr van der Plas appears for the Crown and Mr Hewson for the defendant are really on the same page, when it comes to starting points. Both have filed submissions and referring of course to band 2 of *R v Fatu*.¹ This is the situation where the defendant has acknowledged possession and the sale of methamphetamine. It is clearly, fairly and squarely in that category.

¹ *R v Fatu* [2006] 2 NZLR 72 (CA)

[3] By way of background, the police became aware in April 2017 of the defendant's involvement in dealing in Class A and Class C drugs, namely methamphetamine and cannabis.

[4] Charge 1:

- (a) On Monday 20 February the defendant and an associate were involved in a series of text messages where the associate was sourcing illicit drugs. The defendant was asked by the associate if he had any "green," which referred to cannabis. He confirmed he did and offered to supply that cannabis to the associate.
- (b) Then on Thursday 27 April the defendant and an associate were involved in a series of text messages, where the defendant was offering to sell illicit drugs. The associate advised he was wanting to source a "King for 7" and the defendant confirmed with a counteroffer that he would "for 9." Those texts referred to the defendant offering to supply one gram of methamphetamine to the associate for \$900.
- (c) On 11 May another associate, texted the defendant asking for a bank account number and the defendant texted back the following day, providing another person's bank account number.
- (d) On 12 May that "associate A" arranged for \$3500 to be deposited into that account, after the defendant advised that the money needed to be deposited before the end of the day. Later that same day, 12 May, the defendant's girlfriend made a withdrawal of \$3480 from the account.
- (e) Between 5.30 pm and 7.30 pm that day the defendant and an associate were involved in a series of texts, where the defendant arranged to purchase six grams of methamphetamine for \$3000.
- (f) About 8.30 am the defendant's girlfriend travelled from Wellington to Picton on a ferry. The defendant advised her by text that "associate A"

would arrange for her to be picked up. At 12.30 pm that day the defendant flew from Wellington to Picton. That flight was arranged and paid for by associate A.

- (g) During the same time the defendant was in regular cellphone contact with associate B. Associate A was offering methamphetamine to various associates using her Facebook account. Associate A pleaded guilty to charges relating to those offers.

[5] Charge 2 CRN 17031001186:

- (a) Again, on 23 February 2017 there were a series of texts where the defendant arranged to purchase seven grams of methamphetamine for \$3200.
- (b) Later that evening the defendant was involved in another series of texts with a different associate, where the defendant arranged to purchase 14 grams of methamphetamine for \$5700.
- (c) Two days later 26 February the defendant travelled from Wellington to Picton and returned to Wellington the following day by ferry.
- (d) On 16 April associate A paid for both the defendant and associate B's flights from Paraparaumu to Blenheim. Soon after the flight arrived associate B sent various texts to associates, offering to supply them with methamphetamine.
- (e) He has been charged with those offences and required a sentencing indicating.
- (f) On 27 April the defendant and associate B were involved with a series of texts arranging for the defendant to fly from Paraparaumu to Blenheim. At the time of the flight and following the flight associate B sent various texts to associates, offering to supply them with

methamphetamine. The following day the defendant returned to Wellington by ferry.

- (g) On 3 May the defendant and his girlfriend were involved in a series of texts, where they were arranging for the girlfriend to source methamphetamine for the defendant. An hour and a half later he sent a text to his girlfriend, advising her about the travel bookings. Shortly after 1.00 am on 4 May the girlfriend was preparing to catch a ferry from Wellington to Picton and sent a text to the defendant asking, “What was my name again?” indicating the defendant had made a booking for her using a fake name. Cellphone data showed that the defendant was communicating with her from the Marlborough area.
- (h) Later that day the defendant communicate associate A by text, requesting that she make a return booking for his girlfriend as a walk-on ferry passenger using a name supplied. The name supplied is the defendant’s ex-partner. A short time later the defendant confirmed with associate B his girlfriend was travelling back using a name which was also a false. He was taken to the ferry earlier as a standby passenger.
- (i) Facebook messages were sent out to various associates offering to supply methamphetamine. That person was charged in relation to those messages and pleaded guilty.

[6] I was required to read that out, Mr Pope, so the extent of your offending could be clear to the Parole Board, when it comes to consider the sentence that I am about to impose on you.

[7] In addition, for the drug offending and is also the family violence offending, Mr Hewson is correct in that you initially pleaded not guilty to the charges. Some charges were reduced and you eventually did plead guilty. Those guilty pleas being entered on 14 December last year. The victim in that offending had made an affidavit saying things are not as bad as they were expressed in the summary of facts. I can

understand why she might think that. However, you pleaded guilty on the basis of the summary of facts and you must be sentenced.

[8] In mid-June in the hours of Sunday morning, there was an argument between you and the victim. The argument continued while both you and she moved from the address onto the driveway. You struck her twice to the left side of her head near her ear. Later while driving the vehicle, you punched her a number of times to the head area with a closed fist.

[9] You drove along a northerly direction along State Highway 1 until you reached a rest area at Whirokino Bridge on the Levin side. You stopped your car in the rest area. You grabbed hold of her hair and began to pull it and commenced punching her to the head, again with a closed fist. You reached down to the right side of your driver's seat where a yellow handled axe was located.

[10] On seeing this, the victim opened the passenger door and ran on foot across the road and hid in vegetation. You remained by your car, driving in the area yelling out the victim's name. The police located you in that rest area sitting in the passenger's seat. A subsequent search located the yellow handled axe down the driver's side. She received two lumps to the side of her head.

[11] Again, that does not make pleasant reading, Mr Pope, but it is important it be recorded for two reasons. Firstly, to explain the basis for the sentence I am about to impose. Secondly, so that your whānau, who are here to support you, know the full extent of your offending.

[12] You have written me a letter which I have read. You want to apologise to her for your behaviour. In your words you, "Would like to apologise directly to [the named person] for 'my despicable behaviour towards her which I truly regret.'" I hope those words are true and that you remember those for many years to come because as you have said in here, you have got a [young child] who is [details deleted]. If you want to have any relationship with your [child] your behaviour [relationship details deleted] is going to have to change, markedly.

[13] As I said earlier, the Crown and Mr Hewson are really on a par when it comes to starting points for the drug offending, which is clearly the lead offending. Mr Hewson has referred to *Fatu* and, having regard time to time he 30 grams of methamphetamine which was involved in your offending, the start point taking into account the cases referred by Mr Hewson – *R v Jackson*², *R v De Serville*,³ *R v Murdoch*⁴ and *R v Haira*⁵ – I think a start point of four years’ imprisonment is appropriate. The band in *Fatu* is between two and nine years.

[14] Given the extent of your offending – as you seemed to have quite a sophisticated operation in one sense of arranging associates, travel and the like and it was not just in this area it was in the South Island as well, so you were no stranger to methamphetamine dealing – I think that justifies a start point of four years’ imprisonment.

[15] What I must also do is then add an uplift for the domestic violence because that is separate and discreet offending. Of itself it warrants a sentence of imprisonment probably in the vicinity of 12 to 18 months, but I have to apply what is called “a totality principle” and look to add an uplift to the starting point of four years. I think an appropriate uplift is six months’ imprisonment. That brings me to a point of 54 months’ imprisonment.

[16] What I then have to do is to factor in the mitigating issues and any discounts that are available to you. The letters of support from your family, from the prison chaplain and the negative urine screen, shows that you do seem to have done some serious thinking during the remand period. The support that is offered by your mother, your sister, your brother and other extended family will no doubt be taken into account by the Parole Board when it comes to consider your release. I think you are very fortunate to have that support.

[17] What I intend to do is this, as I had intended not to give you a full 25 percent discount for the family violence charges, because as Mr van der Plas for the Crown

² *R v Jackson* [2013] NZHC 2194

³ *R v De Serville* HC Auckland CRI-2006-004-18441, 29 August 2008

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⁵ *R v Haira* HC Rotorua CRI-2009-063-5871, 24 November 2011

has said, by their being a reduction in the charges there has essentially been a discount there, I could be justified in only allowing a 20 percent discount. Because of the expression of remorse there I will top that discount up to 25 percent in respect of those family violence matters. You are also entitled to 25 percent discount for the drug matters. From a sentence of 54 months' imprisonment I deduct 18 months, which is 25 percent.

[18] Your end sentence is one of three years' imprisonment.

[19] No release conditions can be met by me, they will be imposed by the Parole Board.

[20] In respect of CRN17031001185, nine months' imprisonment.

[21] In respect of supply of Class A CRN17031001186, three year's imprisonment.

[22] Offer to supply Class A CRN17031001184, 18 months' imprisonment.

[23] Three years' imprisonment, in respect of CRN17031001187 supply methamphetamine.

[24] In respect of male assaults female, nine month's for each of those two.

[25] Possession of a weapon, six months' imprisonment.

[26] Threaten to kill, six months' imprisonment.

[27] Those are all concurrent, so the bottom line is three years' imprisonment.

ADDENDUM

[28] After Mr Pope had left the dock I realised that my mathematics is incorrect. I had given a full 25 percent on 54 months. I had deducted more than I appropriately should have as 25 percent of 54 is 16 months – not 18 months. I should not have deducted 18 months. I should have deducted 16 months.

[29] The net result is three years and two months.

[30] Mr van der Plas is not present and I will advise him with a copy of my sentencing notes with the addendum added.

[31] The sentence for the methamphetamine is three years and two months, for each of those two charges.

J D Large
District Court Judge