

**IN THE DISTRICT COURT
AT HAMILTON**

**I TE KŌTI-Ā-ROHE
KI KIRIKIROA**

**CRI-2019-019-002270
[2020] NZDC 804**

THE QUEEN

v

HOLLY JOYCE BELL

Hearing: 20 January 2020
Appearances: A Pell for the Crown
S Cameron for the Defendant
Judgment: 20 January 2020

NOTES OF JUDGE R G MARSHALL ON SENTENCING

[1] Ms Bell you are here for sentence today having pleaded guilty to charges of possession of methamphetamine for supply, offering to supply methamphetamine, both carry terms of life imprisonment, supplying LSD, a Class A controlled drug, supplying GBL, a Class B controlled drug, supply of cannabis and unlawful possession of a firearm.

[2] The summary of facts is that between November 2018 and March 2019 the police executed production orders on your phones. They established dealing in drugs on your part. Between August of 2018 and March 2019 you sold 83.2 grams of methamphetamine in a 100 odd individual sales and a further 23 sales of an unknown quantity. During the same period you also offered to sell 10.85 grams of methamphetamine over 18 completed sales and 3 uncompleted sales. You also sold

\$250 worth of LSD and 200 mils worth of GBL. You also sold two ounces of cannabis and you were found in possession jointly with a .22 calibre firearm.

[3] The Crown have filed submissions and say this falls within band 2 of *Zhang v R*, that the quantity is significant and your role was in the significant or lead role.¹ They point to the planning, premeditation and the commerciality of your operation and band 2 has a range between two and nine years' imprisonment. The Crown suggest a starting point of seven years' imprisonment for the drug dealing offending and an uplift of one year for the possession of the firearm which would lead to an eight year starting point and recognising 15 to 20 percent would be an appropriate acknowledge of your guilty plea.

[4] In the meantime you have obtained a s 27 report from a Dr Nuth, a clinical psychologist, and Ms Cameron on your behalf has presented that to the Court. The Crown recognise that there are mitigating factors in that that the Court can have regard to.

[5] Ms Cameron on your behalf has had a close look of cases of *Zhang v R*. She says that this falls in the lesser role. If you look at it, it is really low level dealing extended over a period of six months, where you make 100 sales of 15 odd grams per month to 20 odd people so when it is put into perspective you are not one of these lead players selling significant quantities of methamphetamine at one time. I think that analysis is probably an accurate one. Ms Cameron suggests a four year starting point for the methamphetamine dealing, four to six months for the other drugs and three to four month uplift for the firearm.

[6] I find that this is towards the upper level of the lesser role, or perhaps bordering on the significant. However, my view a starting point of four and a half years' imprisonment for the methamphetamine dealing is appropriate, a six month uplift for the other drug offending, which brings me to five years, and a six month uplift for the firearm. That is a five and a half year starting point.

¹ *Zhang v R* [2019] NZCA 507.

[7] However I consider that you are entitled to significant discounts up to the maximum for personal factors. I have read that report of Dr Nuth along with your letter to me and also the pre-sentence report. Many people have a range of choices available to them when they have the benefit of a good upbringing and a stable upbringing. You have not had that and I acknowledge that right from the outset. I am not going to go into all the factors about your childhood that led it to be one which probably no child deserves but sufficient to say that left you experiencing or seen violence, drugs and alcohol being part of that, you being introduced to methamphetamine at an early age, poverty, your choices about education were probably removed by an early pregnancy. There are other more traumatic things that happened personally to you during that childhood that will need addressing and with that it does appear that recently you managed during 2017 and the whole of 2018 to abstain from drugs, but when there was custody issues relating to your son and your son was taken away then that led to this offending. For someone who had the benefit of a good upbringing and childhood, that was well educated and has rational choices available to them that fall into drug dealing, it is quite a different circumstance to you. You were always going to fall probably into a position where you were going to have those choices taken away from you. You also became involved once you started dealing with undue influences which once again I will not go into but meant that further choices of yours and the extent of your dealing were taken away from you.

[8] Given all that I am going to give you a 30 percent allowance, or approximately 30 percent allowance, for those factors that I have referred to. That I have estimated relates to about 20 months and that brings me back to 46 months with a 20 percent allowance approximately for your guilty plea. That is a further 10 months and that will bring me back to three years Ms Bell.

[9] I would hope during serving that sentence that the prison authorities give you every encouragement to stay motivated to be drug free and to give you any further drug education, programmes or assistance as far as that is concerned. Also you are not a person who is without some ambition. You obviously have a passion for cooking and want to pursue that further. Anything that can be done to assist you with that or with education should also be made available to you. At 27 you are still young and

you can still have a future and you can still hit those goals of aiming to get your children back and hopefully have some kind of worthwhile productive career:

- (a) On charge 1, supply of methamphetamine, you are sentenced to three years' imprisonment.
- (b) On charge 2, offering to supply methamphetamine, that is three years' imprisonment.
- (c) Supply of LSD, that is 12 months or one year imprisonment.
- (d) Supplying GBL, that is six months' imprisonment.
- (e) Supply of cannabis is 12 months' imprisonment.
- (f) Firearms charge, six months' imprisonment which is, as I say, a total overall of three years.

[10] All these terms are concurrent or run at the same time, so the end sentence will be three years.

[11] Ms Bell there is also an outstanding theft charge of the \$50 of oil and nappies and slippers from Countdown. You will be convicted and discharged on that. So there is no additional penalty.

Judge RG Marshall
District Court Judge

Date of authentication: 30/01/2020

In an electronic form, authenticated pursuant to Rule 2.2(2)(b) Criminal Procedure Rules 2012.

ADDENDUM: I purported to sentence Ms Bell on a theft charge to be convicted and discharged as recorded in paragraph [11] of my sentencing notes. Ms Bell however had been previously sentenced by Judge Connell in relation to this charge on the 5th September 2019 to one months imprisonment. Accordingly the sentence I purported to pass was a nullity.