

MDA 6(1)(c)-A  
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IN THE HIGH COURT OF NEW ZEALAND  
AUCKLAND REGISTRY

S.100/97

REGINA

S.S. eg

v

JAMIE GOLDSMITH

LSD - State  
Mellonphelan

Charge: Supplying Class A;  
Supplying Class B (2);  
Possession Class C for supply

Sentenced: 16 December 1997      To: Imprisonment 2 years,  
suspended

Counsel: M. Edgar for Prisoner  
June M. Jelas for Crown

allow

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SENTENCE OF WILLIAMS J.

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Solicitors: Meredith Connell, Crown Solicitor, DX CP 24063, Auckland  
Mark A. Edgar, DX CP 24133, Auckland

Mr Goldsmith, you appear here for sentence this morning having pleaded at a relatively early stage of the proceedings to one charge of possession of a Class C controlled drug, cannabis plant for supply and two charges of supplying a Class B controlled drug, methamphetamine and supplying a Class A controlled drug, namely lysergide.

When the police went to your address on 17 June of this year they found the drugs in your possession. There were some 67 tin foil packages of cannabis worth about \$20 apiece, plus some additional cannabis, plus some \$1,235 in cash. There were also eight tabs of lysergide, plus a number of syringes and small plastic bags littering the premises which contained the residue of methamphetamine.

It would appear that the charges of supplying the Class A and Class B arose out of your admission to the police that you had been obtaining and supplying these drugs to your flatmates, and to your girlfriend, and possibly to other persons. The charge relating to the cannabis plant, again arose out of your admission that you had been selling cannabis.

You come before the Court having had no previous convictions and that may be fortunate given that you have plainly been addicted to drugs for a number of years. You are now 19. The information before me suggests you have been an addict for at least six years, and that you have regularly and

repeatedly involved yourself in the drug culture on numerous occasions over that period.

However, that said, you have plainly taken a grip on yourself and taken concrete steps to confront your addiction since you were arrested. In the six months since then you have been involved with the Wings Trust, you have been on a number of occasions to the Auckland Regional Alcohol and Drug Services and taken their advice, you have made arrangements with NSAD to undergo their residential programme and you have tried to get into Higher Ground. The only reason, as Mr Edgar says, that you have not been able to get into Higher Ground is because of your age.

It appears that you come from a good background and I acknowledge the testimonials that you put together for sentencing today from your employers and from flatmates. You give me a clear impression that your arrest by the police has been the catalyst for you to confront your addiction, to recognise the desperate straits into which you are getting in your life and to resolve to do something sensible about it. Plainly, one should do what one can to ensure that your rehabilitation is fostered and that the efforts you have made over the past six months to bring your addiction under control and to improve your life are supported.

The difficulty, as Ms Jelas responsibly acknowledges on behalf of the Crown, is whether the term of imprisonment to which you must be subject for

these offences can be two years or less, so that one can consider the question of suspending that sentence of imprisonment to enable you to continue with the rehabilitative work that you have undertaken.

I am sure you have been told by counsel that the offences to which you have pleaded guilty are some of the most serious drug offences in our criminal calendar. You could go to jail for life for supplying Class A. Fortunately, in this case the amounts were relatively small and your dealing in drugs was relatively modest. That is not to condone what you did, but comparing it alongside the offences with which we are commonly confronted in this Court yours is towards the lower end of the drug dealing scale.

Ms Jelas has referred me to two decisions of the Court of Appeal. The first is *R v Akiau* (CA114/82) where, despite it being now some 15 years ago, the facts of the matter are reasonably similar to your own and where a sentence of 18 months' imprisonment was supported by the Court of Appeal. She has also referred me to the *R v Connelly-Baker* (CA104/92, 8 July 1992) where in factual circumstances with some similarity to yours, the Court of Appeal declined to interfere with a sentence of three years three months imposed. However, in *Connelly-Baker* it is clear that the appellant had a number of previous convictions, had sold the drugs to an undercover policeman and that there were at least two charges involving the sale of LSD. Although, of course, one accepts the Court of Appeal's comment that dealing in Class A drugs is a grave offence and must be dealt with accordingly, I do note that the Court of Appeal in

*Connelly-Baker* described three years and three months as being at the higher end of the permitted range for that kind of offence.

I have looked also at the *Solicitor-General v Beere* (CA203/96, 23 July 1996) where a sentence of imprisonment was increased to two years on a Solicitor-General's appeal on a number of drug charges, including Class A. That decision is of assistance because it was a Solicitor-General's appeal. It shows that the Court of Appeal increased the sentence only to the minimum appropriate for the offending.

Having regard to all those situations I have reached the view that the appropriate length of imprisonment to impose upon you in relation to each of the charges to which you have pleaded guilty is one of two years. In a sense that might be described as a little lenient, but it is supported by the cases to which I have referred.

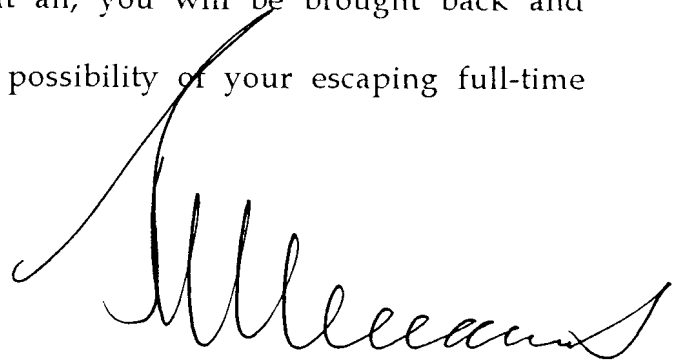
I am impressed by the efforts that you have made following your arrest to take back control of your life and to rehabilitate yourself and I think that those efforts are to be supported.

In the circumstances, you will be convicted and sentenced to two years' imprisonment on each of the charges to which you have pleaded guilty. Those sentences of imprisonment will be suspended for two years. You will be directed to undergo two years' supervision with special conditions that you

attend and complete the residential substance abuse programme at the direction of the Probation Officer - and I very much hope that you go to Marton and complete the residential programme with NSAD - and that you undergo follow-up counselling as directed by the Probation Officer and live and work where directed.

There will be an order for the forfeiture of the \$1,235 found in your possession.

So you have a chance, Mr Goldsmith. If you take that chance, continue with the efforts to free yourself of drugs, and comply with the directions of the Probation Officer over the next couple of years, you stand a reasonable chance of living a useful life. If you do not, then you've only yourself to blame, and you must understand, that if you offend in any way over the next two years, not just with drugs, but offend in any way at all, you will be brought back and resentenced on these charges and the possibility of your escaping full-time imprisonment would be negligible.

A handwritten signature in black ink, appearing to read "M. McLean", is written in a cursive style. The signature is positioned to the right of the main text block.