

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

CRI 2007-092-0806

THE QUEEN

v

JONATHAN MICHAEL SAVAGE

Hearing: 21 April 2009

Counsel: J Donkin for the Crown
A Malik on instructions for B Hart for the Prisoner

Judgment: 21 April 2009

SENTENCE OF POTTER J

Solicitors: Crown Solicitor, P O Box 2213, Auckland 1140

Copy to: B Hart, P O Box 47-106, Ponsonby, Auckland 1144

[1] Jonathan Savage is before the Court for sentence on one charge of supplying a Class A drug methamphetamine which carries a maximum penalty of life imprisonment. The maximum penalty of life imprisonment indicates the seriousness with which methamphetamine related offending is viewed by Parliament. It is a highly dangerous, addictive and pernicious drug. Both Parliament and the Courts have recognised the damage that it does in our community.

Background facts

[2] Mr Savage's offending came to light during a Police operation in the latter part of 2006. On 12 September 2006 he was involved with two other people in the supply to an undercover officer of 4.6 grams of methamphetamine contained in five small plastic snaplock bags for which the recipient paid \$4,000. A few days after this transaction Mr Savage was located at his address at 47 Vine Street and admitted to knowing one of the co-offenders and being involved in drug transactions.

Pre-sentence report

[3] Mr Savage is 42 years old. He has a history of previous offending and is assessed by the probation officer as being of medium to high risk of re-offending. However, there is a notable gap in his criminal offending during the period 1994-2006. He explained that during that period he had a fulltime job and a family. He said he returned to offending when he met the wrong people and resumed using drugs. Mr Savage has written a letter which I have read with great interest. It is quite clear that he himself appreciates the ruination which association with drugs will inevitably produce, and that he wishes for a better life for himself in future. He has proved from past performance that he can stay clear of crime. It can only be hoped that the expressions of intention to do so that he has recorded in the letter addressed to the Court today, can be carried into effect.

[4] Mr Malik counsel for Mr Savage, has also handed up a number of certificates that attest to the efforts made by Mr Savage while he has been on remand for some

16-17 months, to avail himself of the courses offered. Again, I express the hope that they will assist with the strength, commitment and ability to stay clear of crime in the future. I expect, Mr Savage, you will understand that means staying clear of associates who will involve you in crime. Staying clear from criminal offending will also involve you staying clear of drugs.

[5] The history of convictions reveals 42 previous convictions from the age of 14. Some of these convictions which relate to methamphetamine, post-date this offending. They are convictions in 2007 and 2008 and therefore are not relevant to sentencing for this offending. I have previously referred to the period of Mr Savage's life when he managed for twelve years to stay free of criminal offending.

Aggravating factors

[6] The aggravating factors of this offending are the premeditation inherent in the offence of supplying methamphetamine. The Crown submitted that the circumstances of Mr Savage's offending show that he was one step up in the chain of supply from the position of his co-offenders, but there is no evidence that confirms the basis for that submission, which is contested by counsel for Mr Savage. I therefore do not place weight on it for sentencing purposes.

Mitigating factors

[7] The mitigating factors are the guilty plea which was entered on 18 February 2009 at callover in the High Court, and there are other matters alluded to in a letter that has been provided to me today.

Purposes and principles of sentencing

[8] Counsel in their written submissions have helpfully referred me to the purposes and principles of sentencing in ss 7 and 8 of the Sentencing Act and I take those into account.

Submissions

[9] There is a good deal of common ground in the submissions for the Crown and the defence as to the appropriate sentence in this case. Sentencing is of course governed by the guideline judgment of *R v Fatu* [2006] 2 NZLR 72 (CA). The offending in this case falls within band 1, low level supply less than five grams where the recommended sentence is two to four years. It is accepted by counsel that a starting point of three years imprisonment is appropriate, and from that there should be allowed a discount for the early guilty plea and other relevant matters. It is also common ground that home detention is not a sentence that could be suitably or appropriately considered by the Court in this case.

Sentencing

[10] I therefore take as a starting point three years imprisonment. I allow a discount of 25% for the early guilty plea with a resultant sentence of two years three months imprisonment. From that I deduct a further six months for the other matters that have been drawn to my attention, with a final sentence of twenty one months imprisonment.

Sentence imposed

[11] Mr Savage would you stand. The sentence imposed upon you is twenty one months imprisonment.

[12] Please stand down.