

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

CRI 2007-004-18646

THE QUEEN

v

GUISEPPE CATALOGNA

Hearing: 16 June 2009

Counsel: A Pollett for Crown
A Couchman for Accused

Sentence: 16 June 2009

SENTENCE OF RONALD YOUNG J

[1] Mr Catalogna you are now for sentence on two charges having pleaded guilty to supply of ecstasy on 8 August 2007 and possession of ecstasy for supply on 28 August 2007.

[2] The facts were that the Police began an investigation into the supply of drugs by a Robert Haarhaus. During this investigation they came upon telephone contact between you and him. You were identified as having supplied MDMA tablets and ecstasy to the supplier. It seems clear that during the time of the intercept you were a significant supplier of ecstasy tablets to this man.

[3] It is difficult to identify the precise level of supply. Certainly Mr Haarhaus was supplying to others several thousand ecstasy tablets during this time. Ecstasy

sells at a street level for \$50 to \$80 per tablet but at a wholesale level, which seemed to me to be your supply level at \$25 to \$30. In the end I accept your counsel's submissions that the supply on 8 August 2007 related to between one and two thousand ecstasy tablets. In addition, of course, the possession for supply charged related to the 285 tablets that were found at your residence on 28 August 2007.

[4] In addition the Police found \$12,856 in cash at your Lorne Street property and a further \$33,490 at the Waiheke Island property. These are both now to be the subject of a confiscation order, which I will make at the end of this sentencing.

[5] The Crown say that given the facts here and given your involvement in a significant supply of Class B drugs that a starting point of six years is appropriate. I take into account Mr Couchman's written submissions and as well his oral submissions today. He stresses your remorse, your guilty plea, the fact that at fifty-four years of age you are a first offender, that you are at low risk of re-offending and says that no more than a four to five year starting point is appropriate before mitigation.

[6] You are now a fifty-five year old Italian citizen living in New Zealand. As I understand it your visa has now expired and it may be at the end of your obligations arising from this sentencing you may have to leave New Zealand. You accept that the purpose of the drug supply was to make a quick profit and accept, therefore, that this was the commercial supply of drugs.

[7] I accept that you are at low risk of re-offending and that you do now deeply regret your involvement in this foolishness. I treat you effectively as a first offender; your previous conviction is minor and irrelevant. But this was commercial supply of a Class B drug on a reasonable scale involving at a street level more than \$50,000 and the wholesale level at which you were supplying tens of thousands of dollars of value of drugs.

[8] As I have said to begin selling drugs for a man in his fifties seems remarkably foolish to me. I accept that an appropriate starting point overall is a sentence of 5½ years' imprisonment. You have pleaded guilty I accept at the first reasonable

opportunity, together with your crime free past and other significant mitigation I consider that that sentence can be reduced to one of two years and eight months' imprisonment. That is a significant and generous discount in the circumstances.

[9] The proper way in which to do that is to impose that sentence concurrently on both the supply and possession for supply charges. No question of home detention arises and indeed even had the sentence been within jurisdiction I would not have been prepared to impose home detention. This was commercial drug dealing and it would be inappropriate.

[10] I order the forfeiture of the sums of \$12,856.20 and \$33,490 found by the Police.

Ronald Young J

Solicitors:

A Pollett, Meredith Connell, PO Box 2213, Auckland, email: anna.pollett@meredithconnell.co.nz

A Couchman, Auckland, email: izra@ww.co.nz