

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

**CRI-2009-404-000287**

**KOSORL POV KREE ALSO KNOWN AS PAUL KREE**  
Applicant

v

**THE COMMISSIONER OF POLICE**  
Respondent

Hearing: 6 November 2009

Appearances: A G Speed for Applicant  
S McColgan for Respondent

Judgment: 6 November 2009

Reasons: 10 November 2009

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**JUDGMENT OF WHITE J**

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*This judgment was delivered by me on 10 November 2009 at 4:30 pm  
pursuant to Rule 11.5 of the High Court Rules.  
Registrar/Deputy Registrar*

Solicitors/Counsel:

Crown Solicitor, PO Box 2213, Auckland 1140

A G Speed, PO Box 941, Auckland

[1] These are the reasons for the judgment given on Friday, 6 November 2009.

[2] The original application for bail (without electronic monitoring) by Mr Kree (the applicant) was considered and declined by Venning J on 11 August 2009: *Kree v Police* HC AK CRI-2009-004-8677. The background to the drug charges which Mr Kree faces and the reasons for declining bail are set out in the judgment.

[3] The applicant made a further application for bail with electronic monitoring which was considered by Stevens J on 9 October 2009. As the minute of Stevens J records, the application was adjourned to enable the applicant to provide:

- An updating affidavit by the applicant including an explanation as to why he stopped follow-up attendances at the Capri Trust and any relevant information about the Trust;
- An affidavit from his brother or mother;
- An explanation for his previous breach of home detention; and
- Clarification of the amount of methamphetamine involved and the proposed date of trial.

[4] The application was called again on 30 October 2009 before Courtney J when it was adjourned once more as not all of the information had been provided: *Kree v Police* AK HC CRI-2009-404-287 30 October 2009. Courtney J also recorded in her judgment that, as the applicant's mother and brother intended to be overseas for five weeks around the Christmas break, the application would need to deal with the problems over that period.

[5] The applicant's further affidavit dated 29 October 2009 explains that he breached his sentence of home detention because he had attended a class for problem gambling at the Problem Gambling Foundation and unfortunately his friend who had taken him to the course suffered a mechanical breakdown with his car and he missed the course. Whilst he felt he had a reasonable excuse for the breach, he pleaded

guilty. The applicant also explained that he was unable to follow-up the courses at the Capri Trust because he was remanded in custody on the present matters. He had paid the Capri Trust approximately \$20,000 to attend a full-time residential course there. He is making further inquiries as to whether he can continue at the Trust for follow-up treatment. He would like to follow that up if he has the opportunity to do so. On the last spell of home detention he stayed with his mother and brother who were supportive. He wishes to stay with them again as they have a spare room available.

[6] Supporting affidavits have now been provided by Krui Sok, the applicant's mother, Bonna Ang Kree, the applicant's brother who resides with his wife and children with their mother, and Panha Kree, the applicant's other brother. Mr Panha Kree is prepared to move in to live with the applicant when his mother and Bonna Kree are overseas between 23 December 2009 and late January 2010. Mr Panha Kree works at Cavalier Bremworth Carpet Limited as a team leader with a shift commencing at 11:00 pm and finishing at 7:00 am.

[7] Counsel for the applicant informed the Court at the hearing on 6 November 2009 that the agreed amount of methamphetamine is less than 10 grams and that 2 kg of pseudoephedrine was found in the motor vehicle involved in the offences. The District Court trial date is 31 May 2010. There is to be a pre-trial argument about the legality of the motor vehicle search on 5 March 2010. Bail is sought in the High Court because of the applicant's previous conviction. It was submitted that with electronically monitored bail the risks of re-offending, failure to appear in Court or interfering with witnesses or evidence would be adequately mitigated.

[8] Crown counsel did not oppose bail, at least for the period to 23 December 2009, on the basis that electronic monitoring, a 24 hour curfew, and living at home with his mother, would mitigate the risks under s 8(1)(a) of the Bail Act 2000. Counsel submitted that the applicant's position will need to be reviewed before 23 December 2009 when the applicant's mother and brother will be overseas.

[9] I accepted that electronically monitored bail with the standard conditions for that bail meant that the applicant could be granted bail until Tuesday, 15 December

2009 when the grant and conditions would need to be reviewed in light of his compliance with them and the impending departure overseas of his mother and brother.

[10] Electronically monitored bail is therefore granted on the conditions set out on p 5 of the standard electronically monitored bail report (2 October 2008) until 15 December 2009 when the matter is to be called again in the Duty Judge list.

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D J White J