

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

**CRI2009-009-004123**

**REGINA**

v

**GARY PANI AMOROA**

Hearing: 19 November 2009

Counsel: L C Denton for Crown  
A Stevens for Prisoner

Judgment: 19 November 2009

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**SENTENCING REMARKS OF FOGARTY J**

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[1] Gary Pani Amoroa you appear for sentencing on two charges of supplying a Class C controlled drug, cannabis, and for assault. You were arrested as part of Operation Snapper.

[2] You would have heard me discussing the sentence by French J on 23 September given to Mr Lloyd who was the principal offender in that operation, and the sentence that I just gave to Mr Dalwood. You were receiving supplies of cannabis from Mr Dalwood and over a two month period you have been proven, from your admissions, to be selling up to \$10,000 worth of cannabis which is equivalent to about 400 tinnies. This is serious commercial selling of cannabis. For that the law clearly requires a starting point of imprisonment in excess of two years

and I would take the period of two and a half years as suggested by counsel for the Crown.

[3] On top of that and independently, on a separate day, you assaulted a young man during a fight on the streets. He was hit by more than one person but certainly by you. You have pleaded guilty to that. He was badly bruised around the eye. That assault I intend to treat separately and will be reflected in the hours of community work that I am going to impose. I will come back to that in a moment.

[4] I turn back to the question of the cannabis dealing. I am satisfied that even if I treated the assault as warranting a prison sentence, which I do not think it does, with the full discount available you would have an indicative prison sentence below two years. I think the assault charge does not, of itself, warrant a prison sentence, and then approaching the sentence of two and a half years, which is 30 months, and allowing a one-third discount, it is 20 months, which is clearly below two years.

[5] What that analysis means Mr Amoroa is that I am entitled to, and effectively directed, under the Sentencing Act 2002, to consider a lesser restrictive sentence, one of home detention. In your case you qualify for that for two reasons: firstly, your age, now just turned 21, and relative absence of any significant prior offending, and secondly, that co-offenders similarly youthful, Mr Farquhar and Mr Dalwood, have received home detention. It is also very important, and one of the reasons why I consider it, that your mother is prepared to have you on home detention, so you will be in a family environment.

[6] You have had a good job history. I have in front of me a letter from a potential employer indicating that you may be able to pick up some other employment here in Dunedin. I am satisfied that there are good rehabilitation prospects for you, that you are a man having already displayed the ability to use some intelligence in your life. You were, however, a serious criminal when you were selling this cannabis and you have to have a sentence which reflects that criminality, and which I hope will be a lesson to you that this will be the last time that you will appear in these Courts on criminal charges.

[7] You will have heard the debate I had with counsel as to what your sentence would be. Your counsel, Mrs Stevens, has argued for six months on the grounds that the offending of Mr Farquhar, like Mr Dalwood, was aggravated by offending while on bail, something that you did not do. I agree with that. But in their case, also, they served two and a half months in custody, in the case of both of them, and in the case of Mr Dalwood, six months on electronic bail. Your offending is more serious than Mr Farquhar and slightly less serious than Mr Dalwood. But you were clearly engaged at a significant level, just one step below Mr Dalwood.

[8] As I have indicated, in the case of Mr Dalwood I would have been looking at, but for the time he spent in jail and on electronic bail, at 10-11 months home detention. You are entitled to a discount on that but on my view not to a significant degree.

[9] I have decided that in your case you should have a home detention sentence of nine months. In respect of the assault charge you will have community work of 200 hours.

[10] Now in respect of the home detention sentence I will just go thru the conditions with counsel and Ms Beal (probation officer):

- You are to travel directly to 67 Fitzroy Street, South Dunedin, and to remain there until the arrival of your supervising probation officer.
- You are to reside at 67 Fitzroy Street, South Dunedin, for the duration of your home detention sentence.
- You are to abstain from the consumption of alcohol and/or illicit drugs for the duration of home detention.
- You are to undertake employment only as approved by the probation officer.
- You are to attend any treatment/programme/education as may be deemed appropriate by the probation officer.
- You are to attend an assessment for and if deemed suitable, to attend/partake and complete any alcohol and drug programme/counselling/education as may be directed by the probation officer.
- You are to undertake any other programme/counselling/education as may be directed by the probation officer.

[11] In short, and this is just by way of elaboration Mr Amoroa, you are to follow all directions that you are given by the probation officer during this period.

[12] Mr Amoroa it is my sincere hope that you will learn from this experience and that you will develop a productive life and not be back before the Courts again.

Solicitors:  
Crown Solicitor, Dunedin  
A Stevens, Dunedin, for Prisoner