

IN THE SUPREME COURT OF NEW ZEALAND

**SC 79/2009
[2009] NZSC 129**

RI TONG ZHOU

v

THE QUEEN

Court: Elias CJ, Tipping and Wilson JJ

Counsel: H D M Lawry for Applicant
G H Allan for Crown

Judgment: 15 December 2009

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant appealed unsuccessfully to the Court of Appeal¹ against a direction that he serve at least eight years of a term of 15 years imprisonment imposed on him for supplying, offering to supply and conspiring to supply methamphetamine. He accepts, through counsel, that if he had been sentenced in isolation from his co-offenders, he “could not complain about the imposition of a

¹ [2009] NZCA 365.

minimum period of imprisonment” but contends that a miscarriage of justice occurred because the co-offenders were not ordered to serve a minimum term.

[2] It appears to us that the sentencing Judges carefully considered the circumstances of the different cases before them and that it is not at all clear that any of their decisions could be said to be wrong. The Court of Appeal accepted however that there was an unjustifiable disparity in the sentences imposed on the applicant and his co-offenders, and we are content to decide the application on that basis. That disparity arose not because the applicant was ordered to serve a minimum term but because the co-offenders were not. As the Court correctly observed, to allow the appeal in these circumstances would remove any injustice between the applicant and his co-offenders but would create a new and more extensive injustice in that the applicant as well as the co-offenders would be treated more favourably than many similar offenders who had been ordered to serve a minimum period of imprisonment.

[3] The judgment of the Court of Appeal represented the application of settled principles to the facts of the case. No question of general or public importance arises for the consideration of this Court. Nor did any substantial miscarriage of justice occur, because the offending of the applicant justified a minimum term of the length imposed. The application must therefore be dismissed.

Solicitors:
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