

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

**I TE KŌTI MATUA O AOTEAROA  
TĀMAKI MAKĀURAU ROHE**

**CRI-2017-004-009583  
[2020] NZHC 1654**

**THE QUEEN**

v

**WAI FAT WONG**

Hearing: 10 July 2020

Appearances: Erin Woolley for the Crown  
Maria Pecotic for Wai Fat Wong

Judgment: 10 July 2020

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**SENTENCING NOTES OF MOORE J**

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## Introduction

[1] Wai Fat Wong, at the age of 68 you appear for sentence on four charges which relate to the importation and possession for supply of the class A controlled drug methamphetamine.

[2] You were arrested with your six co-defendants on 19 September 2017. You first appeared in the High Court on 21 February 2018 after I determined your trial should be heard here. In making that decision I was primarily influenced by the sophisticated nature of the offending and the very large quantities of high-grade methamphetamine involved.

[3] Your trial, with your co-defendants, was scheduled to commence on 11 February 2019. However, you pleaded guilty to the four charges on the morning of the trial. At that time, I convicted you and remanded you to a nominal date so that the two other defendants who had also pleaded guilty could be sentenced with you along with any other defendant or defendants convicted following trial. As it happened, the jury found all the other defendants, that is Ricky Leung, your wife Hao Li, Zhi Tan and Chi Leung, guilty.

[4] Following those verdicts all counsel advised that it was their clients' strong preference that no sentencing should take place before the Court of Appeal had delivered its methamphetamine sentencing guideline judgment in *Zhang v R*.<sup>1</sup> On 21 October 2019 the Court of Appeal delivered its judgment in that case. I set down the sentencing of all defendants for 13 December 2019.

[5] Shortly before the scheduled sentencing, I received two unsworn affidavits filed on your behalf. These were made by you and Ms Li. In your affidavit you essentially claimed that it was only after you arrived in New Zealand that it dawned you might have been embroiled in some nefarious and unlawful drug importation enterprise. Although you accepted that the elements of the charges were made out and did not seek to vacate your pleas of guilty, you denied your involvement was either planned or deliberate. Instead, you claimed that you were naïve, wilfully blind and/or

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<sup>1</sup> *Zhang v R* [2019] NZCA 507, [2019] 3 NZLR 648.

reckless and you did not play a leading or significant role in the methamphetamine importation and distribution operation.

[6] That position sat in stark contrast to that maintained by the Crown throughout the trial and in the sentencing submissions they filed. The Crown's case was, and remains, that you sat well up in the operational hierarchy and that you took a leading role in co-ordinating the various phases of the operation and the activities of others involved.

[7] Given the factual gulf between you and the Crown I had no option but to adjourn your sentencing and convene a separate hearing for the purpose of determining what your actual role in the enterprise was.

[8] The disputed facts hearing took place before me earlier this year. You gave evidence and you were cross-examined. Counsel addressed me on your role.

[9] I decided that you played a leading role in this enterprise. In material respects I did not believe your account. I gave my reasons for disbelieving you in a separate judgment.<sup>2</sup>

[10] I mention this protracted procedural history because the sentencing process is a public one which the law requires to be undertaken in open Court. That you are now being sentenced well after your co-defendants required some explanation.

### **Charges and convictions**

[11] I turn now to set out what happened to your co-defendants.

[12] On 30 January 2019, just under a fortnight before the trial was scheduled to commence, Mr Chiu pleaded guilty to one charge of importing methamphetamine<sup>3</sup> and two charges of possession of methamphetamine for supply.<sup>4</sup>

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<sup>2</sup> *R v Wong* [2020] NZHC 1359.

<sup>3</sup> Misuse of Drugs Act 1975, s 6(1)(a) and (2)(a); maximum penalty life imprisonment.

<sup>4</sup> Section 6(1)(f) and (2)(a); maximum penalty life imprisonment.

[13] Mr Chiang pleaded guilty on 8 February 2019, just four days before the trial started. He pleaded guilty to one charge of possession of methamphetamine for supply.

[14] As noted, you pleaded guilty on the morning of the trial.

[15] As for the defendants who went to trial, the jury found Mr Ricky Leung guilty of three charges of importation and two charges of possession for supply. Ms Li, Ms Tan and Chi Leung were each found guilty of one charge of possession for supply.

### **The offending**

[16] I turn next to the factual background. The summary which follows is drawn from the summary of facts, the evidence at trial and my findings following the disputed facts hearing. I am conscious that in setting out these matters now, I am repeating much of what you obviously know. I have no wish to prolong the sentencing process any longer than is necessary, but it is important that you and others understand the factual basis on which I am sentencing you.

[17] The offending covered three importations of methamphetamine over a period of approximately one year. The combined weight of the imported drug was in excess of 250 kilograms. The Crown says that if that quantity had been sold on the New Zealand market it would have attracted, even at wholesale, many millions of dollars. The Crown puts that figure at between \$48 million and \$66 million. In the end it does not really matter. On any analysis the quantity involved is very large indeed. It holds the dubious distinction of being one of the largest importations of methamphetamine ever made into this country.

[18] The other important observation is that the method of importation was highly sophisticated. Each was sourced from China. The methamphetamine was dissolved in gypsum, a concrete-like substance, which was poured into metal cases masquerading as outdoor umbrella stands. Each stand was separately packaged and shipped to New Zealand in a container as part of a larger consignment of miscellaneous outdoor furniture and recreational goods.

[19] For such a large and sophisticated international operation, its prospects of success were driven not only by the degree of forward planning and careful execution, but also by the division of responsibility reflected in the various roles played by the participants, each lending their support in different ways with the common goal of contributing to ensure the successful completion of the overall enterprise.

[20] There were four phases. The first involved the creation and setting up of the systems and ground work to land the drugs, clear them from New Zealand Customs (“Customs”) and prepare the storage facilities pending processing. The second phase involved sourcing and procuring the equipment necessary to extract the drugs from the gypsum substrate and to arrange the venue at which the processing was to take place. The third phase involved bringing into the country those recruited to undertake the extraction process, the so-called “workers”. And finally, there was the extraction phase where the workers would set about breaking down the gypsum and extracting the drug. Because the New Zealand authorities intervened before the fourth phase started, no drugs were actually extracted.

[21] I shall describe each of the first three phases and how the division of responsibility worked, starting first with the scout who paved the way.

[22] That scout was Ricky Leung. Using an innocent agent, he set up the systems to receive the drugs when they arrived in this country. He made numerous visits to New Zealand between April 2016 and September 2017.

[23] The first importation arrived in this country on or before 14 October 2016 when the first of the containers of outdoor furniture landed. Wrapped inside innocuous looking cardboard boxes were seven umbrella bases. Each had methamphetamine concealed inside the gypsum base. This importation was cleared by Customs and later delivered to a storage unit which Ricky Leung and the innocent agent had arranged in Parnell. The total methamphetamine estimated to have been imported on this occasion was 48 kilograms.

[24] The second importation took place on or about 14 August 2017, that is about 10 months after the first. Again, the shipment included outdoor furniture and

recreational equipment, including 16 outdoor umbrella bases. Each was wrapped in the same way as the first importation. This importation was inspected by Customs. The bases looked suspicious. They were examined more closely. Customs scanned and tested them. Methamphetamine was detected. The gypsum substrate containing the drug was removed and replaced with a similar looking placebo substance. A small quantity of methamphetamine was left in one of the bases and on 23 August 2017 a controlled delivery was made to the consignee address; storage facility which had been organised by Ricky Leung in Onehunga. This importation was a good deal larger. It totalled 109 kilograms.

[25] About three weeks later, on 11 September 2017, you arrived in New Zealand on a flight from Hong Kong. Travelling with you on the same plane was Mr Chiu and your wife, Hao Li. After hiring a car at the airport, you checked into your hotel before driving to a storage facility in Takapuna. There Mr Chiu signed a contract to hire a storage unit for the period 12 September 2017 to 11 October 2017. You were listed as the alternate contact person. This storage facility was leased for the purpose of accommodating the third importation which, at that time, was still on the water en route to New Zealand.

[26] Within three days of your arrival in New Zealand, on 14 September 2017, Mr Chiu and Ms Li were making enquiries about properties which might be available to rent. Plainly these enquiries were for the purpose of identifying a suitable address for the extraction phase. You were also involved. Those enquiries led to Mr Chiu signing up to rent a residential home in Manurewa at 5 Claymore Street.

[27] Also on that day Ricky Leung returned to Auckland from Hong Kong. The next day, on 17 September 2017, he and Mr Chiu were seen visiting a storage unit in Grey Lynn which had been rented earlier. Later that same day you and Ms Li went to Noel Leeming in Manukau City and purchased a large side-by-side freezer. Ms Li paid for it in cash.

[28] The following day, on 18 September 2017, the workers arrived together from Hong Kong. They were Mr Tan, Chi Leung and Mr Chiang. You and Ms Li met them. Driving a van (“the Estima”) which you had hired a day or so earlier because you

needed a larger vehicle with more people to move around, you took them into the city where they checked into the same hotel where you and your wife were staying.

[29] A few hours later, you, your wife and Mr Chiu drove them to a shopping complex in Botany. At a cookware shop you and the others purchased three large stainless-steel cooking pots, three hot plates and a variety of other items consistent with extracting the drug from the substrate.

[30] A short time later you drove the group to Bunnings Warehouse (“Bunnings”) in Botany where gloves, duct-tape, splash goggles, wrecking bars, chisels, hammers, angle grinders, wrenches, a multi-mixer tool and carpet protectors were purchased. It is obvious what these items were brought for. They represented some of the equipment necessary for the extraction process. Your explanation at the disputed facts hearing was that you thought these items were being bought to fix any equipment for the restaurant you said Mr Tung and Mr Chiu were setting up. For the reasons I gave in my decision, that explanation was farcical. You knew exactly what these items were to be used for.

[31] The following day, that is 19 September 2017, the tenancy at 5 Claymore Street commenced. Shortly after 9:00 am the freezer, which you and your wife had bought at Noel Leeming, was delivered. You were present when it was delivered and you signed the receipt.

[32] Later that morning you and your wife visited a refrigeration specialty shop where you purchased a vacuum pump. Shortly afterwards you went to another shop and bought two electronic thermometers.

[33] Later that same day Ricky Leung and Mr Chiu drove to the Onehunga storage unit where they removed six of the cartons containing umbrella bases. They put them in the car and drove back to Sky City. There Mr Chiu swapped places with Mr Chiang. Ricky Leung and Mr Chiang drove out to Botany and stopped in the carpark of the shopping mall. They unloaded the six boxes before driving off.

[34] Within minutes the Estima, driven by you, arrived and stopped beside the boxes. You, with the others, loaded the boxes into the Estima. You then drove to 5 Claymore Street and carried the boxes into the house.

[35] Mr Chiang remained at the house while you drove the Estima, with the others, to the Onehunga storage facility from which Mr Chiu and Ricky Leung had unloaded the six boxes earlier in the day. You and the other men began to unload the other cartons containing the umbrella bases into the back of the Estima.

[36] Meanwhile, back in Manurewa, Mr Chiang started to open the boxes. He must have discovered that they had been tampered with. He immediately texted Mr Tan. He told him that there was "a situation". He told him not to come back. CCTV surveillance images captured Mr Tan taking this call. Mr Tan could be seen communicating with those inside the container. The boxes were then removed from the Estima and returned to the container which was locked before you, with the others drove back to Auckland City. On your arrival in Auckland you stopped the Estima in Federal Street. Its occupants dispersed. Mr Chiu ran off. He was chased and caught by the Police. Mr Tan, Chi Leung, you and your wife were also taken into custody.

[37] Later that afternoon Mr Chiang returned to the hotel by taxi. He and Ricky Leung met at a nearby café. They, too, were arrested.

[38] The hotel room which you shared with Ms Li was searched. Significantly, a very substantial volume of documentary and other material was found amongst your belongings. This included extensive hardcopy documentation associated with the second importation, a packing list for the third importation, images of machinery and equipment and other outdoor items consistent with the importations. There were many scribbled, hand written notes and lists which you accepted you had completed. These included documents which referred to 5 Claymore Street, lists mentioning Bunnings, the Warehouse, vacuum pumps, stainless steel pots, China Town and Wairau Park. Another note referenced Storage King, Grey Lynn. Business cards were found from Noel Leeming, cookware shops, refrigerator suppliers, industrial thermometer retailers and car rental companies. And even a large number of documents were located on your laptop. Some of these, such as the copy of the innocent agent's

passport, provided the link with and the preparatory steps associated with the importations. There is documentation relating to items linked with the second importation. I rejected your explanation that the material on your laptop came from a USB stick Mr Tung had given you and that the lists and other items in your handwriting were completed by you on Mr Chiu's instructions and you recorded them so you would not forget. Neither did I accept your explanation that you asked Mr Chiu to take possession of these items but that he steadfastly refused to do so. My reasons for coming to those conclusions are set out more fully in my disputed facts judgment.

[39] The property at 5 Claymore Street was searched. The six boxes containing the umbrella stands were located just inside the front door. The top box appeared to have been opened. The newly purchased freezer was seen in the laundry. In the spare room were the items purchased the day before at the cookware shop and at Bunnings.

[40] About a month later a related importation of various hardware items arrived. Although the consignment note declared these as dry cleaning machines, the items imported included heavy duty grinding equipment plainly intended to be used in the extraction process.

[41] Then, on about 22 October 2017, the third drug consignment arrived. As with the previous two, it contained a variety of outdoor furniture including 17 umbrella bases, all but identical to the previous importations. These were tested. All were found to contain methamphetamine dissolved in the gypsum substrate. This importation was comparable to the second. The total imported was 110 kilograms.

[42] In summary, the quantities of methamphetamine were as follows:

- (a) Importation 1: 48 kilograms;
- (b) Importation 2: 109 kilograms;
- (c) Importation 3: 110 kilograms.

[43] Thus the total methamphetamine imported, as I have already noted, was 267 kilograms. An analysis of the average purity put it at 68 per cent. That is a very high level of purity.

### **Your offending**

[44] You pleaded guilty to Charges 2, 3, 4 and 5 in the Crown Charge Notice. Breaking that down into detail:

- (a) Charge 2 related to the possession for supply following the first importation of 48 kilograms;
- (b) Charge 3 was the second importation of 109 kilograms;
- (c) Charge 4 was the possession for supply following the second importation; and
- (d) Charge 5 was the third importation of 110 kilograms.

### **Approach to sentence**

[45] The first step is for me to set the starting point in accordance with the guidelines set out in *Zhang*, which set sentencing “bands” prescribing a range of starting points for different levels of methamphetamine offending. The Court of Appeal confirmed that quantity remains a valuable component in assessing culpability.<sup>5</sup> This is because quantity is an indicator of commerciality as well as harm to the community.

[46] But quantity alone is not determinative in assessing culpability.<sup>6</sup> A defendant’s role in the offending has a fundamental influence on culpability and that factor can be accommodated by movement within any given band.<sup>7</sup> It is common sense that a more limited level of engagement in the drug enterprise will attract a less severe sentence

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<sup>5</sup> *Zhang v R*, above n 1, at [104].

<sup>6</sup> At [104].

<sup>7</sup> At [110].

than a significant or leading role.<sup>8</sup> And as was it with your co-defendants, that is a principle which is very much in play in your case.

[47] Another relevant factor at this stage is that I must ensure that any sentence I impose reflects a relativity or parity with your co-defendants who I sentenced last December.<sup>9</sup>

[48] The second step is to consider your personal factors, including your pleas of guilty and the extent to which the starting point should be adjusted to arrive at a final sentence.

[49] And finally, I need to decide whether to impose a minimum period of imprisonment (“MPI”) and if so, of what duration.

### **Starting point**

[50] You pleaded guilty to charges connected to all three importations. Ms Pecotic, on your behalf, submits that in respect of the first importation you pleaded guilty only to possession of the balance of the quantity of the drug imported, that is seven packages of a mixture of methamphetamine and gypsum. That is less than the 48 kilograms actually imported. However, as she responsibly accepted, the difference between what you possessed and the amount actually imported does not materially affect an assessment of your role. Nor does it materially alter where you sit within the *Zhang* bands. Band 5 of *Zhang*, which relates to methamphetamine dealing in quantities of more than 2 kilograms ranges from 10 years to life imprisonment.

[51] Plainly, on quantity alone, your offending sits close to the very top, potentially attracting a sentence of life imprisonment. However, as I observed when sentencing your co-defendants, life imprisonment has only been imposed for methamphetamine-related offending on two previous occasions and in circumstances which are quite different from yours. Furthermore, sentences of life imprisonment were not imposed in respect of any of the defendants connected to the importation of approximately 500 kilograms of methamphetamine at Ahipara in June 2016.

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<sup>8</sup> At [118].

<sup>9</sup> Sentencing Act 2002, s 8(e).

[52] Recognising that approach, Ms Woolley, for the Crown, properly in my view, does not seek the imposition of life imprisonment in your case.

[53] However, the Crown places your position in the hierarchy of those connected to this operation as above that of Ricky Leung whose starting point of 30 years sat at the top of those I sentenced last December. This is because, on your own evidence, you had direct contact with the mastermind of the operation. It was from that person you derived all the documentation you had in your possession when you were arrested. Furthermore, you led the group which arrived here on 17 September 2017 and was busily occupied in setting up the systems to extract the drug before the Police interrupted you. You were central to the obtaining of the necessary equipment for the extraction process. You co-ordinated the activities. The Crown says a necessary inference is that you were entrusted by your senior to lead the team here in New Zealand. I agree. And while Ricky Leung was responsible for the front end of the operation, you were responsible for and physically involved in the second and third phases. The Crown thus submits that an appropriate starting point for you would be slightly above Ricky Leung in the vicinity of 31 to 32 years.

[54] On the question of starting point Ms Pecotic responds by submitting that the starting point of 30 years' imprisonment adopted for Ricky Leung recognised his senior role and involvement. Mr Chiu was regarded as a lesser player than Ricky Leung given the more "hands on" operational role he played. She says that the things Mr Chiu did, with the exception of liaising with Ricky Leung, are the same things as you did. I set a starting point of 26-and-a-half years' imprisonment for Mr Chiu. Ms Pecotic suggests a starting point for you of between 26-and-a-half years and 30 years' imprisonment.

[55] I am satisfied, for the reasons advanced by Ms Woolley and as I determined at the disputed facts hearing, that in terms of comparable roles you sit above Ricky Leung. Plainly, both of you must have had direct contact with others offshore further up in the hierarchy, but it was you who assumed the role of local operational manager and it was you who led the team here. The documentation found in your possession reflects your overall knowledge of the operation across all three importations. You had control of the funds and you ran the local arm of this venture. And, of course,

your pleas reflect that, although I accept you are not being sentenced on the basis you were actually involved in the first importation.

[56] In my view your senior and leading role attracts a minimum starting point of 31 years and that is the starting point I propose to adopt.

### **Personal factors**

[57] The next question is how much that starting point should be reduced on account of your personal factors and your pleas of guilty.

[58] The Crown says there is limited evidence to support such a discount apart from your age and self-reported health problems.

[59] Against that Ms Pecotic refers me to the principle that I am required to take into account any particular circumstances which would mean a sentence which would otherwise be appropriate would, in your particular case, be disproportionately severe.<sup>10</sup> She invites me to invoke this provision in respect of both your age and your circumstances.

[60] I agree with Ms Pecotic that at your age and in your circumstances, imprisonment will be particularly difficult. You are not young. You are separated from your wife. Your family and friends are in China. You have no means of independent support and there is no one available to obtain for you the sorts of things which other inmates might expect to make life in gaol more tolerable. You are also incarcerated in a place where your first language is not the language spoken by most others. The food, too, is likely to be very different from that which you are used to. And I am told and have seen records from the prison that indicate you are suffering from skin and other ailments connected to the western-style food you are obliged to consume in prison. It is well accepted that this renders a prison sentence more severe.<sup>11</sup>

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<sup>10</sup> Sentencing Act 2002, s 8(h).

<sup>11</sup> *Zhang v R*, above n 1, at [163].

[61] On the other hand, there is no reliable evidence you suffer from any serious health-related issues, other than your self-reporting that your eye sight and memory is declining, apparently due to your age.

[62] There is also the question of lack of a known or proved criminal history and your previous good character. In that regard I note the letter from your sister which was shown to me just before I came into Court. Plainly, on her account, you have done good works and have supported your family and others. It is a very sad letter actually. It leaves more questions than answers as to how it is you go to where you are this morning. But when the offending sits at such a high level, discounts for previous good character are necessarily limited. Such circumstances are “to be weighed in the balance with the needs of deterrence, denunciation, accountability and public protection” in sentencing those convicted of commercial drug dealing.<sup>12</sup> The personal circumstances which warrant real discounts in such cases are factors such as addiction and mental health issues because these diminish culpability.

[63] Ms Pecotic suggests a discount, although she does not nominate a particular figure. The Crown suggests that consistent with your co-defendants, a discount in the vicinity of two to two-and-a-half years would be appropriate.

[64] I am satisfied that a discrete discount should be given for these factors. I gave discounts for broadly similar reasons to Ricky Leung who was 63 and Mr Chiu who was 59. I gave them discounts in the order of 8 per cent. I shall do the same in your case.

[65] Having done so this brings the provisional sentence down to one of 28 years and six months.

[66] I turn next to your guilty plea. In this context, Ms Pecotic pointed out that not only did you plead guilty, but you are remorseful and you have successfully completed various rehabilitative programmes while on remand. That is to your credit. I accept that and take it into account.

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<sup>12</sup> At [133]; See also *R v Jarden* [2008] NZSC 69; [2008] 3 NZLR 612.

[67] Ms Pecotic submitted that a discount comparable to that of the other co-defendants would be appropriate. Not without some reservations, I gave Mr Chiu a 20 per cent discount and Mr Chiang a 15 per cent discount.

[68] Ms Woolley submits a discount of no more than 5 per cent is appropriate. This recognises the lateness of the plea, the strength of the evidence against you and the fact there were no amendments to the charges although the Crown agreed not to proceed with one charge, which I withdrew this morning, given the guilty pleas on the other charges.

[69] I agree with Ms Woolley. The pleas were entered very late in the piece. The evidence was overwhelming. And while you belatedly accepted criminal liability, you unsuccessfully challenged the Crown's claim you played a leading role requiring a full disputed facts hearing. That was, of course, your right. But having done so it is more difficult to claim unqualified remorse. In these circumstances you are in a different position to the defendants who I gave discounts for. I also note that your pleas made no material difference to how the trial was run.

[70] However, I am conscious of the need for consistency between defendants. The 15 per cent and 20 per cent discounts allowed for your other co-defendants cannot be overlooked, generous as they may have been. Not without some misgivings I am prepared to give you a 10 per cent discount. This leads to an end sentence of 25-and-a-half years.

### **Minimum term of imprisonment**

[71] The Court may impose an MPI only if it is satisfied that an MPI is necessary for the purposes of accountability, deterrence or denunciation.<sup>13</sup> MPIs are not to be imposed as a matter of routine.<sup>14</sup> The test under s 86 of the Sentencing Act 2002 needs to be applied in terms of the particular circumstances of the case and must not be fettered.<sup>15</sup>

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<sup>13</sup> Sentencing Act 2002, s 86(2).

<sup>14</sup> *Zhang v R*, above n 1, at [169].

<sup>15</sup> At [174].

[72] But in a case such as this, which involved significant commercial drug dealing undertaken by foreign nationals who came to this country for the specific purpose of offending here, the principles of deterrence, denunciation and accountability must lie at the forefront. You were a senior and leading figure in a highly sophisticated and well-resourced foreign-based syndicate which targeted New Zealand as a lucrative market to distribute a drug which is ravaging our communities, particularly those which are vulnerable. Before you and your wife landed here, you had no connection to this country. Your claims you came here to sightsee were demonstrably untrue for the reasons I gave in my judgment. Your explanation that you were under some sort of duress or compulsion because of a gambling debt also did not stack up. You were here for just one purpose; to make money through the importation and distribution of a very large quantity of methamphetamine. Your letter to me this morning gives some hope that you now have a level of insight into the misery methamphetamine has wrought in our community. In prison you have seen first-hand what a devastating effect it has had on our young people. That is why the principles of denunciation and deterrence especially, are engaged here. The Courts have limited tools to send out the message to like-minded others that if you are caught here there will be little room for leniency. Strong deterrent sentences are one such tool. The imposition of an MPI is plainly necessary.

[73] I did not understand Ms Pecotic to submit that in your case an MPI should not be imposed. Rather, she submitted that an MPI of eight-and-a-half years would fairly represent your position. By that time, if the decision is made to release you, you would be nearly 77 years old.

[74] Ms Woolley submitted I should impose the maximum MPI available under the law, that is 10 years. Her rationale is that if a finite sentence of somewhere around 30 years is imposed, parole after less than 10 years served would be a wholly inadequate response to offending involving 200 kilograms of methamphetamine.

[75] But for your particular circumstances, I would most certainly have agreed with her. I am conscious of your advancing age, deteriorating health and geographic and cultural dislocation which I acknowledged when considering the discount for personal

factors. It is permissible to also take those factors into account in determining the appropriate MPI. That is not double counting.

[76] In all the circumstances, I agree with Ms Pecotic that an MPI of eight-and-a-half years' imprisonment is appropriate. Of course, it does not mean that you will be released after you have served eight-and-a-half years. That will be for the Parole Board to decide at that time.

### **Result**

[77] Please stand.

[78] On each charge you are sentenced to a term of imprisonment of 25-and-a-half years. That sentence is imposed on a concurrent basis, in other words it is the total sentence imposed.

[79] I order an MPI of eight-and-a-half years.

[80] Stand down.

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**Moore J**

*Solicitors:*  
Crown Solicitor, Auckland  
Ms Pecotic, Auckland