

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

**I TE KŌTI MATUA O AOTEAROA
WHANGĀREI-TERENGA-PARĀOA ROHE**

**CRI-2021-088-002754
[2024] NZHC 2289**

THE KING

v

**KAURI KERR
PATARIKA APIATA
GLENN ALEXANDER COOK
Defendants**

Hearing: 15 August 2024

Appearances: B M O'Connor, A J Goodwin for the Crown
K E Tuialii (on behalf of J J Rhodes) for Mr Kerr
A Ives, C Taylor for Mr Apiata
W T Nabney for Mr Cook

Judgment: 15 August 2024

SENTENCING NOTES OF WHATA J

Solicitors/Counsel:
Marsden Woods Inskip Smith (Office of the Crown Solicitor) Whangarei
J J Rhodes, K E Tuialii, Barristers, Auckland
A Ives, C Taylor, Barristers, Auckland
W T Nabney, Barrister, Tauranga

[1] Mr Kerr, Mr Cook and Mr Apiata, you all have pleaded guilty to the various charges associated with a methamphetamine business. It now falls to me to sentence you on those charges.

[2] To do this, I will:

- (a) First, identify the charges on which each of you have pleaded guilty.
- (b) Second, I will describe the key facts of your offending.
- (c) Third, set out my reasons for the sentence I will impose on each of you.
- (d) Finally, I will impose those sentences on you.

[3] Mr Kerr, you have pleaded guilty to:

- (a) one charge of importation of methamphetamine (representative charge) between 3 March 2020 and 14 October 2021;
- (b) importation of MDMA (representative charge) between 9 April 2020 and 4 October 2020;
- (c) importation of pseudoephedrine on 6 April 2021;
- (d) conspiracy to manufacture methamphetamine between 1 April 2021 and 3 November 2021;
- (e) conspiracy to supply methamphetamine between 1 April 2021 and 12 November 2021;
- (f) offer to supply methamphetamine on 7 October 2021;
- (g) conspiracy to supply methamphetamine on 4 November 2021;

- (h) cultivation of prohibited plant (cannabis) between 8 October 2021 and 12 November 2021;
- (i) conspiracy to sell cannabis between 8 October 2021 and 12 November 2021; and
- (j) participation in an organised criminal group between 3 March 2020 and 12 November 2021.

[4] Mr Apiata, you have pleaded guilty to:

- (a) conspiracy to manufacture methamphetamine between 1 August 2021 and 12 November 2021;
- (b) supply of methamphetamine (representative) between 1 August 2021 and 12 November 2021;
- (c) supply of methamphetamine (representative) between 6 October 2021 and 10 October 2021, particularly, 14 ounces; and
- (d) participating in an organised criminal group between 1 August 2021 and 12 November 2021.

[5] Mr Cook, you have pleaded guilty to:

- (a) conspiracy to manufacture methamphetamine between 1 April 2021 and 12 November 2021;
- (b) conspiracy to supply methamphetamine between 27 September 2021 and 12 November 2021;
- (c) possession of a controlled drug for the purpose of supply between 1 November 2021 and 4 November 2021;

- (d) participation in an organised criminal group between 3 March 2020 and 12 November 2021;
- (e) failure to carry out obligations in relation to computer system search on 12 November 2021; and
- (f) unlawful possession of a prohibited firearm on 27 August 2021.

[6] I now sentence each of you for that offending.

Facts of the offending

[7] Operation Freya was a joint Police and Customs investigation that detected various forms of methamphetamine and other drug related offending from March 2020 to 12 November 2021. Thirteen defendants were identified, including the three of you. All have pleaded guilty to various charges associated with this offending, which I will collectively call the enterprise.

Overview

[8] Mr Kerr, you were the leader of this enterprise, involved in all aspects of it, including importation, manufacture and supply of methamphetamine and other illicit drugs. Mr Apiata, you obtained ingredients for the manufacture of methamphetamine and played a key role in the sale of methamphetamine. You also had a small role in one manufacture of methamphetamine. Mr Cook, your primary role was to source materials for manufacture, such as iodine. You also collected parcels for the enterprise from time to time.

Importation (Kauri Kerr)

[9] In terms of the importation offending, Customs intercepted 20 different illicit drug importations for which you, Mr Kerr, were responsible. Between 3 March 2020 and 14 October 2021, 16.9 kg of methamphetamine was captured en route to multiple Northland addresses — at 69 per cent purity, this amounted to 11.6 kg of pure methamphetamine. The addresses were primarily associated with other members of the enterprise, as well as their family members. Within this timeframe, Customs also

intercepted at least 2.547 kg of MDMA and 1.056 kg of pseudoephedrine (which could be used to manufacture 750 g of methamphetamine) in parcels bound for numerous Northland addresses.

Conspiracy to manufacture and manufacture of methamphetamine

[10] I turn now to the conspiracy to manufacture. Between 1 April and 3 November 2021, Mr Kerr, you — along with Mr Apiata and Mr Cook — were involved in a conspiracy to manufacture methamphetamine. Again, Mr Kerr, you were the leader of the conspiracy, coordinating the movements of others for the purpose of, among other things, securing ingredients for the manufacture of methamphetamine. You also organised the manufacture of at least 400 g of methamphetamine that occurred between 5 and 6 October 2021.

[11] Mr Cook, you participated in this conspiracy by securing ingredients needed to produce methamphetamine, including 20 kg of caustic soda on 22 and 24 June 2021, as well as 20 L of iodine on 10 and 11 September 2021. Further, on 30 October, you travelled from Northland to Auckland, and Gisborne, to deliver and uplift packages. You had no involvement in the actual manufacture.

[12] Mr Apiata, you participated in the manufacture that took place between 5 and 6 October 2021 and, together with Mr Kerr, you attempted to acquire several kilograms of iodine on 7 October 2021, which would have allowed the manufacture of approximately 4 kg of methamphetamine. You and Mr Kerr then made plans to travel to Auckland the next day to purchase the iodine, which did not eventuate.

Supply of methamphetamine

[13] I now turn to the supply of methamphetamine.

[14] Mr Kerr, you were actively engaged in the supply of methamphetamine in the period between 27 September 2021 and 3 November 2021 using others, such as Mr Levi Tali and Mr Jordan Hokai, to uplift and move drugs at your direction. In addition, on 4 November, you and Taioma Gillett discussed the transport and sale of 2 kg of methamphetamine (valued at \$200,000).

[15] You also supplied methamphetamine to Mr Apiata for sale at about \$3,000 an ounce, who then on sold that methamphetamine. As noted in my disputed facts judgment, I am satisfied that you Mr Apiata had been selling 15 ounces a week to Carlyn Anderson at about \$7,000 an ounce, at a profit of about \$4,000 per ounce. I could not be sure of the exact quantum of your trading other than to find that you made at least \$56,000 from a supply over a four-day period in October and that you were involved in commercial level dealing over a period, including September and October 2021. In addition, on 7 October, you phoned an unknown male, for whom you arranged “a quarter G” (referring to a quarter gram of methamphetamine).

Cannabis charges

[16] Mr Kerr, you also face charges for cultivation of and conspiracy to sell cannabis. Between 8 October and 12 November 2021, you grew cannabis which was sold to others. In addition to the cannabis that you cultivated, you also obtained cannabis from elsewhere to sell. The scale of this activity is, however, unclear to me.

Sentencing

[17] I now deal with the sentence I must impose on each of you. It is in three key steps:

- (a) First, I must set out what is called a starting point for a sentence of imprisonment. Given that the key offending is drug offending, the starting point must reflect both the quantum of the drugs involved and the specific role you played.
- (b) Second, I must then increase the starting point for any personal factors that raise further concerns about you, as well as take into account any reasons that justify a more lenient approach to your sentence.
- (c) Third, I must give you a discount for guilty plea before arriving at a final sentence.

[18] Throughout this process, I must be guided by the purposes and principles of sentencing, including the need to deter you and others who might offend like you, to denounce your behaviour, to protect the public and to provide for your rehabilitation.

[19] I will now address the reasons for your sentences in this order:

- (a) First, Mr Cook;
- (b) Then, you Mr Apiata; and finally,
- (c) Mr Kerr.

Mr Cook

Starting point

[20] Mr Cook, the Crown seeks a starting point of seven to eight years for the conspiracy to manufacture and supply charges, with a 10-month uplift for the unlawful possession of a firearm charge. It sets this start point with reference to the 400 g of methamphetamine manufactured in October 2021, and argue that you would have been fully aware of scale of the enterprise. It also says your role was between lesser and significant and that you derived profit from the operation by way of vehicles, accommodation, and the covering of your living expenses.

[21] Your counsel, Mr Nabney, submits that you should be classified within the “lesser” role as you performed a limited function under direction, had little or no actual or expected financial gain and had no influence on those above in the chain. He submits that a starting point of six years is therefore appropriate, together with an uplift of 12 months for the firearms charge.

[22] Mr Cook, I have had the benefit of the disputed facts hearing and have a good appreciation of your role. I consider it falls within the lesser category. You had a lengthy involvement in the enterprise, but essentially as a worker who did what he was told, including purchasing ingredients for methamphetamine manufacture or uplifting items for Mr Kerr. There is also little evidence to suggest your profited greatly from

your work, and I am not satisfied beyond reasonable doubt that you had a good knowledge of the overall operation. In fact, I very much doubt that.

[23] As Mr Nabney quite properly accepts, given my finding of the manufacture of 400 g, your offending falls to be considered as what is called band 3 offending, which provides a starting point of between six to 12 years. This must be adjusted downward to reflect that you are charged with conspiracy to manufacture. Overall, with that in mind, and given your lesser role, I adopt a starting point of **six and half years**. This is comparable to the starting point for others in the enterprise who had a worker-like role in the methamphetamine enterprise. This must also be uplifted by six months for the possession of a firearm. This results in an overall starting point of **seven years**.

Other uplifts?

[24] No uplift is sought for your prior convictions and no other matters have been identified that might cause me to uplift the starting point for personal factors.

Discounts

[25] In terms of potential discounts, Mr Nabney submits that you should receive a discount of:

- (a) 11 months for time spent on EM bail of nearly two years;
- (b) a further six months for efforts at rehabilitation; and
- (c) 20 per cent for your guilty plea.

EM bail

[26] In terms of a discount for EM bail, you were subject to restrictive bail conditions for about 23 months and that, save for one incident, you complied with the terms of that bail. The Crown however say you are entitled to a discount comprising 35 per cent of the EM bail period, citing a case called *Schramka*.¹ Like that case,

¹ *Schramka v R* [2022] NZCA 299, [2022] 3 NZLR 348.

EM bail was relaxed over time. I therefore agree that a discount comprising approximately of **eight months** is warranted.

Rehabilitation

[27] I address your efforts at rehabilitation. Your counsel has provided a report from NZ BASS that clearly shows you have made considerable efforts to improve yourself over the last two years. The report also refers to background factors that reveal early life struggles, including normalisation of substance abuse, limited education, disconnection from your cultural heritage and dysfunctional family dynamics. They are part of the reasons you find yourself in this situation today. Overall, therefore, I am satisfied that a further discount of **15 per cent** is justified.

Guilty plea

[28] Dealing now with guilty plea, the Crown emphasises the need for parity in terms of guilty plea discounts, noting that other co-defendants who pleaded in 2023 only received discounts of 12.5 per cent. I accept, however, that you had offered to resolve all of the key charges except a manufacturing charge very early, and that much the balance of the delay is explicable in terms of ensuring the charges faced by you were the right charges. The fact that the Crown ultimately abandoned the manufacturing charge in part justified your caution, as did your success on the disputed facts hearing. Overall, I therefore agree with your counsel that a **20 per cent** discount is appropriate.

[29] In the result, Mr Cook, when all discounts are considered, this leads to an end sentence of **three years and 10 months' imprisonment.**

Mr Apiata

Starting point

[30] Turning to you now Mr Apiata. The Crown are seeking a starting point of 12 years' imprisonment for the supply charges and an uplift of three years for the conspiracy to manufacture charges. The Crown says your offending sits in band 3 for the supply charges involving a minimum of 14 ounces (or 346 g) of methamphetamine,

which would give the starting point range of six to 12 years' imprisonment. The Crown also say you had a "leading" role in the operation as you organised and sold methamphetamine on a commercial scale, including the sale of at a minimum of 14 ounces in four days. They also say you operated with a reasonable level of independence in supply, making a clear profit of \$4,000 an ounce.

[31] Your counsel, Ms Ives, submits that a starting point between six or seven years is appropriate for the lead charge of supply, and that a starting point of 15 years is incompatible with relevant cases and the sentences handed down to your co-defendants. She says that you fall within band 3 and had a "significant" role in the operation, and that an uplift of no higher than 18 months is appropriate for the conspiracy charge, resulting in a starting point of eight years. She emphasises your involvement came reasonably late to the enterprise, about September 2021, and with your role largely limited to a single customer. Comparisons are also made to co-defendants:

- (a) Mr Gillet was involved in the importation of 8.1 kg of methamphetamine over five imports and was categorised as a "middle man". He received a starting point of 13 years.
- (b) Mr Hokai was involved in the importation of just over 2 kg and was described as a gopher. He received a starting point of eight years.
- (c) Mr Hilton was involved in the importation of 9.5 kg of methamphetamine. His role was between lesser and significant. He received a starting point sentence of seven years and ten months.
- (d) Ms Griffen was associated with an importation of 5.5 kg of methamphetamine and described as in a lesser role. A starting point of nine years was adopted.

[32] I agree with Ms Ives that these sentences are relevant to my sentence for you. Further, I consider it appropriate to consider your offending as a whole when fixing

the start point for the lead supply offending, rather than adopting a cumulative approach as suggested by the Crown. This better reflects the reality of your offending.

[33] In this regard, I consider that you had a significant role in Mr Kerr's enterprise overall from about August, but occupied a discrete lead role in the supply of methamphetamine. More specifically, you played an operational role under Mr Kerr's leadership in terms of trying to secure ingredients for the manufacture of methamphetamine. You were also involved, although in a minor way, in the actual production of methamphetamine. Most importantly, you had considerable independence and fronted the direct sale of methamphetamine to an important customer.² For example, you negotiated the terms of sale. You also had an expectation of a significant profit. As the Crown said, at one stage, this resulted in you earning in the order of \$4,000 per ounce on the sale of 14 ounces over four days. You were also involved, as I have said, in the commercial level sale of methamphetamine over September and October 2021. I accept, however, that at the end of the operation you were only found with \$5,595 in cash and 44 g of methamphetamine.

[34] These factors taken together, I find that your role overall is best described as at the mid-high end of the significant category, while you took a lead role in the sale of methamphetamine, although in the low to mid-range of band 3. This combination attracts a starting point at the mid-upper end of that band, and in my view, for your offending, a starting point of **ten years** is warranted. I also agree with your counsel that, while you were prominent in respect of the supply during October, I do not consider you occupied a right-hand man role, even though you suggested to others that you were high up in the enterprise.³ On the other hand, the starting point sought by your counsel does not adequately reflect the full seriousness of your offending and your role in the supply of methamphetamine to the Northland community. Indeed, you played an instrumental role for considerable personal profit in the distribution of methamphetamine directly into that community.

² *R v Apiata & Cook* [2024] NZHC 1076 at [22(g)], [40] and [46].

³ At [49].

Uplifts

[35] I turn now to look at factors the Crown says means I should uplift your sentence. They say as your offending occurred while you were on parole for prior offending, your sentence should be uplifted by 12 months. I however consider that is too significant an uplift and instead impose an uplift of **three months** as sufficient to meet the principles of sentencing.

[36] In combination, therefore, I arrive at a starting point of **ten years and three months' imprisonment**.

Mitigating personal factors

[37] I now turn to potential discounts. Ms Ives submits that you should receive discounts of:

- (a) 20 per cent for personal background factors;
- (b) 7.5 per cent for rehabilitation;
- (c) 5 per cent for remorse;
- (d) three months for your time on EM bail; and
- (e) 20 per cent for your guilty plea.

Background factors

[38] Ms Ives highlights that you had a very tough upbringing and that this underlies your criminal behaviour. The nature of your upbringing and the challenges you have faced are powerfully captured by the words of your partner and mother of your children, Lia. She says:

I feel that he has never truly been given a fair shot at life. From his early upbringing, non-supportive alcoholic parents, who are still to this day non-supportive and battling their own demons. To CYFS care, to multiple overcrowded family homes, into gang life and then a ten-year jail sentence. I'm not trying to make excuses for him, or any decisions he has made in his

33 years of life, but I do feel that he's never had a proper support, nurturing guidance, or any form of a healthy home environment to help structure and achieve a better life for himself.

[39] As she says, your background does not excuse your offending, especially as significant as this. And, given the seriousness of it, for personal profit, I must take a carefully measured approach to any discount for background factors which I accept have contributed to your offending. I therefore afford you a **12.5 per cent** discount for these factors.

Rehabilitation

[40] I have also read the material that speak of the positive role modelling you have provided for those in prison and of the steps that you have taken while on remand to address the causes of your offending. I refer in this regard to the supportive comments from Carol Thompson of Te Ao Marama and James Crichton of Pūwhakamua. While again I must treat this with care and indeed caution, your ongoing rehabilitation must be encouraged. I therefore afford you a further **12.5 per cent** discount for these factors.

Remorse and EM bail

[41] Mr Apiata, I sense from your messages, and from your subsequent work on rehabilitation, that you have some remorse about the offending but I do not consider that it warrants a further discount over the discount I have already afforded to you for that rehabilitation. I also do not consider that a discount for time on EM bail is warranted given that you absconded for five or so months while on that bail.

Guilty plea

[42] Ms Ives contends for you that you acknowledged the offending early on, following an unsuccessful challenge to the admissibility of evidence. She also says that you only received the Crown charge notice for the purpose of the disputed facts hearing. The Crown considers a discount of 10 per cent for guilty plea, entered at the end of 2023, is appropriate and broadly proportionate to the discount given to other defendants who pleaded in mid-2023. I am content Mr Apiata that given your early

acknowledgement of the offending, and your partial success at the disputed facts hearing, a guilty plea discount of **12.5 per cent** is appropriate.

[43] Overall, therefore, Mr Apiata, from a starting point of **10 years three months**, I apply a discount of **37.5 per cent** for your guilty plea, background factors and rehabilitation. This results in an end sentence of **six years and four months' imprisonment**.

[44] Given the seriousness of the offending, but also having regard to your rehabilitative potential, I have also decided to impose a **40 per cent** minimum sentence. For completeness, I acknowledge the point made by Ms Ives that minimum periods ignore the hideous truth of institutionalised men. But regrettably, it is the risk to public safety that these same men present that mandates the minimum period. The balance lies in identifying a sentence overall that acknowledges your potential for rehabilitation. That is what I have endeavoured to do here.

Mr Kerr

Starting point for Mr Kerr

[45] Mr Kerr, the Crown is seeking a starting point of 18 to 19 years' imprisonment for the lead charge of importation. The Crown then seeks a further uplift of three to four years for your other offending, resulting in a total starting point of 22 years' imprisonment. The Crown also seeks an MPI of 50 per cent or more. Your counsel submits this is too high. She says the starting point should be 18 years for all of the offending. She submits that while you were a leader of the enterprise, you did not abuse your position, and all those involved shared in the profits.

[46] As I did for Mr Apiata, I consider that I should address all of the offending together. That reflects the reality that you were involved in an illicit drug enterprise that included importation, manufacture and the sale of methamphetamine and other drugs.

[47] You were the leader of this enterprise and, contrary to the submission of your counsel, I do not consider that your leadership style is a mitigating factor. Rather, I

consider it to be the absence of potentially aggravating factor. This was very serious, harmful, premeditated offending.

[48] In terms of quantum, your offending involved an importation of more than 11 kg of pure methamphetamine, at least 2.547 kg of MDMA and 1.056 kg of pseudoephedrine, as well as a manufacture of at least 400 grams of methamphetamine. You also supplied methamphetamine to and supervised its sale by Mr Apiata and others, though I accept Mr Apiata profited from this.⁴

[49] Given this scale and quantum of the drug offending, it falls within what is called band 5, which attracts a starting point in the range of 10 years to life imprisonment. Based on a number of cases involving a leader like you, of a similar scale of methamphetamine offending, a combined starting point of **19 years** is appropriate.⁵ This is less than the 20 years in *Kulu* and the 22 years in *Harding*, cases referred to by the Crown.⁶ But the quantum of the importation was much larger in *Kulu* and your offending does not have any of the sophistication of the manufacture offending in *Harding*.

[50] I uplift this starting point for the cannabis offending by six months only, given the lack of clarity as to scale of that offending and because, in any event, it is a minor feature of your overall offending.⁷ This results in a cumulative starting point of **19 years and six months' imprisonment**.

Mitigating personal factors

[51] I turn now to the second step of my sentencing approach. You have no history of similar offending so I have no reason to uplift your starting point for this factor. Your counsel submits, however, that I should discount your sentence to account for the following factors:

⁴ See my disputed facts judgment at *R v Apiata & Cook*, above n 2.

⁵ See *Kulu v R* [2022] NZCA 284; *McMillan v R* [2022] NZCA 128; *Thompson v R* (in *Zhang v R* [2019] NZCA 507, [2019] 3 NZLR 648); *Fangupo v R* [2020] NZCA 484; and *Harding v R* (in *Berkland v R* [2022] NZSC 143, [2022] 1 NZLR 509).

⁶ *Kulu v R*, above n 5; and *Harding v R*, above n 5.

⁷ See *R v Ronaki* [2023] NZHC 3106, where an uplift to a 19-year starting point for offending involving 13.1 kg of methamphetamine was required in order to account for cannabis offending “for a commercial purpose with the object of deriving profit” (at [151]). In considering totality, and the multiplicity of charges faced by the defendant, Gwyn J adopted an uplift of six months.

- (a) your traumatic personal background — your counsel seeks a 15 per cent discount for this;
- (b) your remorse and prospects of rehabilitation — a discount in the region of 10 per cent is sought;
- (c) impact on your children — a discount of 5 per cent is sought for this; and
- (d) your guilty plea — your counsel seeks a 20 per cent discount.

Background factors

[52] Turning to your background factors, I accept that you had an impoverished upbringing and that this background contributed to your offending. Of particular note, the background information suggests:

- (a) Alcohol, drug abuse and addiction was rife in your family through your childhood.
- (b) Your upbringing was marked by significant deprivation.
- (c) Your father got you into drug dealing as a child.
- (d) Your family became dependent on you as you grew up, and ultimately you engaged in drug dealing to keep your family fed.
- (e) You left school at a young age and had served your first sentence by 18, and became a patched member of the Mongrel Mob in the Bay of Plenty at 21.
- (f) After you left the Mongrel Mob, you returned home to Northland, continued to use methamphetamine and resorted to crime to fund your addiction.

[53] There is also clinical material that suggests you suffer from gambling, drug and alcohol disorders, and may have undiagnosed bipolar disorder and ADHD.

[54] For these matters, I am prepared to afford you a discount of **12.5 per cent**. It is much less than what your counsel seeks. This is because, while these factors contributed to where you find yourself, the sheer scale of your operation and your central role as leader of it, strongly suggests you were clearly driven also by a desire to make a significant commercial profit. Put another way, your background factors were not the primary driver of your offending and do not justify a greater discount.⁸

Remorse and rehabilitation

[55] As to your remorse and rehabilitation, I am told you have been making genuine efforts at rehabilitation, including having your tattoos removed and renouncing your connection to the Mongrel Mob and I accept at some real risk to you, completing NCEA Level 1 and earning 11 credits from various programmes. You have also tried to gain access to various rehabilitation opportunities on bail, but these have been denied. You have also participated in a tikanga course and there are several letters from whānau supporting you, as well as a letter from an aftercare practitioner with Odyssey House.

[56] I am not satisfied I should afford you a discount for remorse, Mr Kerr. Like Mr Apiata, I accept you have some remorse as displayed by your commitment to rehabilitation, but I am not satisfied it has reached the level that should attract a separate discount. However, as to rehabilitation — clearly you have taken or tried to take steps to improve yourself. Your commitment to removing your tattoos and your association with the Mongrel Mob speaks to this, as does your evident desire to address your drug addiction. This then links back to the background factors that contributed to your offending and the personal and public benefit in you taking these steps. For this factor, I afford you a discount of **12.5 per cent**.

⁸ This applies the approach taken in *Harding*, above n 5.

Children

[57] I come to a discount sought based on the impact of your imprisonment on your children. I accept there is clear authority for this now.⁹ But I consider the discount for rehabilitation afforded to you is sufficient to address this factor, in terms of meaningfully shortening the period you are separated from them. I am also mindful of the fact that you are not the primary caregiver, so the immediacy of the impact of your imprisonment, while still significant, is less than if you were that caregiver.

Guilty plea

[58] Dealing lastly with your guilty plea, I am told that instructions to plead were given early but could not be actioned because disclosure was extensive, and the Crown had not finalised its charge notice until late October 2023 or its summary of facts until November 2023. A proposal for plea was then offered in February and a plea entered in March 2024, when you were in a position to reasonably be able to agree to the level of the culpability alleged.

[59] The Crown submits that given the lateness of your plea, you should receive five per cent discount only. This is necessary to maintain fairness between you and your co-defendants who pleaded earlier, noting that some of them received a discount of 12.5 per cent after pleading guilty last year.

[60] While some delays appear to have been necessary, and having regard to the fact that the key charges you faced from the outset are largely replicated in the charges to which you pleaded guilty, you cannot reasonably expect a 20 per cent discount when taking more than two years to plead. Having regard to the discounts afforded to other defendants who pleaded earlier than you, but conscious of the fact that you also faced the most serious charges, so care before pleading was warranted, and I note the scale of the claimed methamphetamine imported materially reduced by the time of the final Crown charges, a **10 per cent** discount for a guilty plea is appropriate.

⁹ *Philip v R* [2022] NZSC 149, [2022] 1 NZLR 571.

[61] Overall, therefore, I am prepared to afford you a combined discount for personal factors and your guilty plea of **35 per cent**. This results in an end sentence of **12 years and eight months' imprisonment**.

[62] Turning to minimum period of sentence, I agree with the Crown that a minimum period of sentence is necessary given your lead role and the seriousness of the offending, the need to protect the public and for deterrence. However, I consider a **40 per cent** minimum is sufficient and properly acknowledges your capacity for rehabilitation.

Imposition of sentence

[63] I will now impose sentence on all of you. Please stand.

[64] Mr Kerr, I sentence you as follows:

- (a) For the importation of methamphetamine (representative), I sentence you to **12 years and eight months' imprisonment with an MPI of 40 per cent**.
- (b) For importation of MDMA (representative), I sentence you to seven years' imprisonment.
- (c) For importation of pseudoephedrine, I sentence you to three years' imprisonment.
- (d) For conspiracy to manufacture methamphetamine, I sentence you to eight years' imprisonment.
- (e) For conspiracy to supply methamphetamine, I sentence you to eight years' imprisonment.
- (f) For offering to supply methamphetamine, I sentence you to one year's imprisonment.

- (g) For conspiracy to supply methamphetamine, I sentence you to eight years' imprisonment.
- (h) For cultivation of a prohibited plant (cannabis), I sentence you to one year's imprisonment.
- (i) For conspiracy to sell cannabis, I sentence you to one year's imprisonment.
- (j) Finally, for participation in an organised criminal group, I sentence you to six years' imprisonment.

[65] All sentences are to be served concurrently.

[66] Mr Apiata, I sentence you as follows:

- (a) For the supply of methamphetamine (representative) between 6 and 10 October 2021, particularly, 14 ounces, I sentence you to **six years and four months' imprisonment with an MPI of 40 per cent.**
- (b) For the conspiracy to manufacture methamphetamine, I sentence you to four years' imprisonment.
- (c) For the supply of methamphetamine (representative), I sentence you to four years' imprisonment.
- (d) For participating in an organised criminal group, I sentence you to three years' imprisonment.

[67] All sentences are to be served concurrently.

[68] Mr Cook, I sentence you as follows:

- (a) For conspiracy to manufacture methamphetamine, I sentence you to **three years 10 months' imprisonment.**

- (b) For conspiracy to supply methamphetamine, I sentence you to two years' imprisonment.
- (c) For possession of a controlled drug for the purpose of supply, I sentence you to one year's imprisonment.
- (d) For participation in an organised criminal group, I sentence you to two years' imprisonment.
- (e) For failure to carry out obligations in relation to computer system search, I sentence you to three months' imprisonment.
- (f) Finally, for unlawful possession of a prohibited firearm, I sentence you to 18 months' imprisonment.

[69] All sentences are to be served concurrently.

[70] You may all stand down.

Whata J