

IN THE SUPREME COURT OF NEW ZEALAND

**SC 36/2005
[2005] NZSC 55**

ADA SHARON PUE

v

THE QUEEN

Court: Gault J and Blanchard J

Counsel: M A Kennedy for Applicant
E M Thomas for Respondent

Judgment: 10 August 2005

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] The applicant was convicted, after pleading guilty on arraignment to one charge of manufacturing methamphetamine (then a Class B drug) and two charges of supplying the same drug. She seeks leave to appeal against the concurrent sentences of imprisonment for six and a half years with a minimum period to be served of three years.

[2] Written submissions in support and in opposition to the application have been considered. Oral argument on the application has not been required.

[3] In support of the application counsel argued that the proposed appeal would raise two matters of general and public importance so as to meet the criteria for leave in s 13 of the Supreme Court Act 2003. They are the extent to which the welfare of children of an offender is to be taken into account when an offender faces a substantial term of imprisonment, and whether that same factor should affect the imposition of a minimum term to be served.

[4] It is a settled sentencing principle that the welfare of dependent children is a matter to be taken into account. That was expressly acknowledged by the sentencing Judge in this case. The extent to which this factor influences sentences of imprisonment to be imposed will depend on the circumstances of each particular case.

[5] This application does not raise any issue of sentencing principle of general or public importance. The applicant seeks a review of the application of the well-established principle to the particular circumstances of her case. That is what occurred before the Court of Appeal. It is not appropriate for leave to be given for a second appeal to enable another review of the level of a particular sentence. That is not a matter of general or public importance.

[6] The application does not meet the criteria for leave and must be refused.

Solicitors:
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