[2002] QCA 271

COURT OF APPEAL

McMURDO P
DAVIES JA
WILSON J

CA No 371 of 2001

THE QUEEN

v.

JAMIE DAVID MACEY Applicant

BRISBANE

..DATE 29/07/2002

JUDGMENT

DAVIES JA: The applicant pleaded guilty in the Supreme Court on 4 December 2001 on seven counts; one of trafficking in methylamphetamine, one of producing methylamphetamine in excess of two grams, one of possessing things used in the production thereof and three of possessing property obtained from trafficking. On the following day he was sentenced to seven years imprisonment on the trafficking count and not further punished on the other counts.

The applicant was 26 years of age when he committed these offences or, I should say, the last of them for it is unclear when he commenced production and trafficking in the drug. He has no relevant previous convictions.

The main evidence upon which the applicant was sentenced came from his co-offender, from which it appears that they were both interstate truck drivers when they met in 1998. Each used methylamphetamines and when he visited the applicant's house the applicant would give him some of that drug free.

Late in 1998 the applicant told his co-offender that he was learning to cook the drug and borrowed $2,000 from him in order to set up his business. By some time in 1999 he was operating a delivery service of the drug for the applicant for which he was paid in the drug. He also, for some time, supplied premises, a shed on his land, for the purpose of the production of the drug and bought Sudafed on the applicant's behalf for that purpose. The applicant later established the production of the business on his own premises.

When the applicant was arrested, a container containing 143.53 grams of pure methylamphetamine was found on his premises and a further 31.935 grams of the drug was found in other places on his premises. So also were items used in the production of the drug and the sum of $21,000 in cash.

The extent of the applicant's trafficking was difficult to establish. However, an asset betterment exercise indicated that, between 1 January 1999 and 18 August 1999, there was an excess of $115,000 in expenditure over known income. It is plain therefore from this that the applicant's business was a large and financially rewarding one.

A particularly disturbing feature of this case was that the applicant's main customers appeared to be truck drivers. He and his co-offender between them had apparently established a network of drivers who were customers. The applicant was himself a user of the drug, as I have mentioned, but it is plain that he carried on the business for financial gain.

The co-offender had been sentenced previously but his sentence was of no relevance in determining the sentence which was appropriate to be imposed in this case because his cooperation with law enforcement authorities had been taken into account in imposing his sentence. Moreover the learned sentencing judge said that the sentence, stated by the sentencing judge in the co-offender's sentence, pursuant to section 13A of the Penalties and Sentences Act 1992 (Qld), as a sentence which would otherwise have been imposed, was one which would not

entitle the applicant here to a justifiable sense of grievance. Nothing has been said in this application to question that conclusion.

The applicant pleaded guilty although this was on the eve of the trial. The learned sentencing judge said that he would make some allowance for that but because the only costs saved were those of a possible two day hearing in court, that could not be great. I would agree with that conclusion.

The only other matters which could be mentioned by way of mitigation are that the applicant had no other relevant convictions, a factor which is common in cases such as this, and his relatively young age.

Before the learned sentencing judge the applicant's counsel contended for a sentence which his Honour imposed, that is, an effective term of seven years imprisonment. That contention, and his Honour's sentence, were, in my opinion, well within range. The sentence actually imposed by this Court in R v. Geary [2002] QCA 33 of 10 years imprisonment for trafficking in methylamphetamine shows that to be so. It is probably correct to say that the trafficking in that case may have been a little more extensive than that in this case although it is difficult to be sure that even that is so.

For the reasons I have given the application, in my opinion, should be dismissed.

THE PRESIDENT: I agree.

WILSON J: I agree.

THE PRESIDENT: That is the order of the Court.
