

# SUPREME COURT OF QUEENSLAND

CITATION: *R v Anderson* [2002] QCA 466

PARTIES: **R**  
**v**  
**ANDERSON, Paul William**  
(applicant)

FILE NO/S: CA No 225 of 2002  
SC No 296 of 2002

DIVISION: Court of Appeal

PROCEEDING: Sentence Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED EXTEMPORE ON: 1 November 2002

DELIVERED AT: Brisbane

HEARING DATE: 1 November 2002

JUDGES: de Jersey CJ, McPherson JA and Mullins J  
Separate reasons for judgment for each member of the court,  
each concurring as to the orders made

ORDER: **The application is refused**

CATCHWORDS: CRIMINAL LAW – JURISDICTION PRACTICE AND  
PROCEDURE – JUDGEMENT AND PUNISHMENT –  
SENTENCE – FACTORS TO BE TAKEN INTO  
ACCOUNT – FACTUAL BASIS FOR SENTENCE –  
PARTICULAR CASES – where applicant appeals against  
his sentence of eight years’ imprisonment for unlawfully  
trafficking in heroin – where applicant had a substantial prior  
criminal history including drug offending but had not  
previously been imprisoned – where there was no  
circumstance obliging the learned sentencing Judge to add  
any recommendation for early eligibility for parole

COUNSEL: M J Byrne for the applicant  
M J Copley for the respondent

SOLICITORS: Noel Woodall & Associates for the applicant  
Director of Public Prosecutions (Queensland) for the  
respondent

THE CHIEF JUSTICE: The applicant was sentenced to eight years' imprisonment following his conviction by a jury of the offence of carrying on the business of unlawfully trafficking in heroin.

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The trafficking occurred over the period June to November 2000 at a time when the applicant was aged 42 to 43 years. It involved 80 to 100 identified sales to one Buxton for approximately \$7,000. They were therefore smallish street level sales. Sometimes the applicant used couriers.

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The sentencing Judge took the view that the applicant probably had other customers and that was a reasonable inference. He could obtain the drug easily. He used a car and a mobile phone. He had a drug problem himself and had attempted to wean himself off narcotics but not completely successfully.

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He had a substantial prior criminal history including drug offending, but he had not previously been imprisoned.

Significantly, he was on the 17th of July 2000 sentenced in the Magistrates Court for possession of dangerous drugs on the 26th of June 2000, which was at the beginning of the trafficking period.

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The sentence of eight years' imprisonment following conviction at a trial for trafficking of this order sits comfortably within the range suggested by a number of comparable cases: Le [1996] 2 Queensland Reports 516 and 520 to 521; Le [2001]

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Queensland Court of Appeal 290; Giang, Court of Appeal 313 of 1997 and Pascoe, Court of Appeal 184 of 1997.

The applicant having gone to trial, there was no circumstance obliging the learned Judge to add any recommendation for early eligibility for parole. I would refuse the application.

McPHERSON JA: I agree.

MULLINS J: I agree.

THE CHIEF JUSTICE: The application is refused.

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