SUPREME COURT OF QUEENSLAND

CITATION:	*R v Saggers* [2016] QCA 344
PARTIES:	**R** **v** **SAGGERS, Danise** (applicant)
FILE NO:	CA No 164 of 2016 SC No 432 of 2015
DIVISION:	Court of Appeal
PROCEEDING:	Sentence Application
ORIGINATING COURT:	Supreme Court at Brisbane – Date of Sentence: 19 May 2016
DELIVERED ON:	20 December 2016
DELIVERED AT:	Brisbane
HEARING DATE:	25 November 2016
JUDGES:	Gotterson and Philippides JJA and Henry J Separate reasons for judgment of each member of the Court, each concurring as to the order made
ORDER:	**Application for leave to appeal against sentence refused.**
CATCHWORDS:	CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – SENTENCE MANIFESTLY EXCESSIVE OR INADEQUATE – where the applicant pleaded guilty to trafficking in methylamphetamine and possession of methylamphetamine – where the applicant was sentenced to five years' imprisonment suspended after 12 months for an operational period of five years for the trafficking charge – where the applicant was convicted and not further punished on the possession charge – where the applicant appeals her sentence on the ground that it was manifestly excessive – where the applicant regularly dealt with 25 customers who she understood would on-supply the drug – where the applicant continued to offend after initially intercepted by police – where after being released on bail the applicant gained employment for about 12 months and claimed it had been significant in her rehabilitation – where there was a prolonged delay in the applicant deciding to plead guilty thus enabling her rehabilitation – where applicant claims the sentencing Judge failed to ameliorate the sentence to any extent for her rehabilitation – whether the sentence was manifestly excessive *Drugs Misuse Act* 1986 (Qld), s 5(2) *Penalties and Sentences Act* 1992 (Qld), s 159A(3C), s 189

AB v The Queen (1999) 198 CLR 111; [1999] HCA 46, cited
R v Ainsworth [2000] QCA 163, cited
R v Alt (2013) 236 A Crim R 486; [2013] QCA 343, cited
R v Baradel [2016] QCA 114, distinguished
R v Barton [2006] QCA 367, distinguished
R v Cannon [2005] QCA 41, cited
R v Fabre [2008] QCA 386, cited
R v McAway [2008] QCA 401, distinguished
R v Mullins [2007] QCA 418, distinguished
R v Reid [2013] QCA 190, distinguished
R v Skedgwell [1999] 2 Qd R 97; [1998] QCA 93, cited
R v Taylor [2005] QCA 379, distinguished
R v Tilley; ex parte Attorney General [1999] QCA 424, cited
R v Tytherleigh [2006] QCA 193, distinguished
R v Willoughby [2009] QCA 105, cited
Wong v The Queen (2001) 207 CLR 584; [2001] HCA 64, applied

COUNSEL: S A Lynch for the applicant
D R Kinsella for the respondent

SOLICITORS: Moloney MacCallum Lawyers for the applicant
Director of Public Prosecutions (Queensland) for the respondent

[1] **GOTTERSON JA:** I agree with the order proposed by Henry J and with the reasons given by his Honour.

[2] **PHILIPPIDES JA:** I have had the benefit of reading the reasons for judgment of Henry J. I agree with those reasons and with the order proposed.

[3] **HENRY J:** The applicant pleaded guilty to a two-count indictment charging her with trafficking in methylamphetamine and possession of methylamphetamine.

[4] On the charge of trafficking she was sentenced to five years' imprisonment suspended after 12 months for an operational period of five years. She was convicted but not further punished on the possession charge.

[5] She seeks leave to appeal her sentence on the ground:

> "That his Honour failed to ameliorate the sentence to any extent for her rehabilitation and that the sentence was manifestly excessive in all of the circumstances."

Facts

[6] Police intercepted communications between the applicant and others, indicating she was engaged in the business of selling methylamphetamine at a distribution level between that of a wholesaler and a street-level dealer.

[7] She dealt regularly with 25 customers who she understood would be on-supplying the drug. She referred to selling drugs as "working" and her customers as "clients". She had multiple suppliers.

[8] The 884 drug related intercepted calls and messages in which she was involved showed she would sell methylamphetamine in three and a-half gram "balls" for $1,500, 1.75 gram "half balls" for $700 and grams for $550 to $650. She sometimes discussed supplying ounces with her suppliers and customers but there was no evidence of sales in those amounts actually occurring. Amounts of $500 to $1,500 were often mentioned. In one instance when trying to organise credit she reminded her supplier she had made the supplier $1,000 on a previous deal. She supplied drugs on credit and discussed debts and money owing. She accepted stolen property for debts and valuable items as collateral for credit. While the applicant's motivation for selling methylamphetamine was financial gain, no evidence of unexplained income or expensive assets was gathered and in the intercepted communications she stated she was "broke".

[9] She endeavoured to conceal her activities through the use of code words, multiple phones and SIM cards and by accepting payments through a TAB account. She also utilised two hire cars to deliver drugs during the trafficking period.

[10] Her sales activity was constant throughout the trafficking period of a little over three and a half months, between 25 October 2013 and 17 February 2014. The police intervened on a number of occasions during that period.

[11] On 27 November 2013 police intercepted one of the applicant's customers after she left the applicant's address, where she had arranged to buy drugs. She was in possession of one gram of methylamphetamine. On 15 January 2014 police intercepted the applicant at a location where she had arranged to supply methylamphetamine to another. She was in possession of 1.471 grams of MDA, a clipseal bag of MSM, a cutting agent, .04 grams of methylamphetamine, $310 cash, three mobile phones, four SIM cards, a document which appeared to be a drug ledger or "tick sheet" and 30 cold and flu tablets. She was arrested and granted bail. Undeterred, she continued her illicit business.

[12] On 24 January 2014 police executed a search warrant at a Southport unit and in the bedroom occupied by the applicant they found .061 grams of methylamphetamine, three bags of MSM, a set of digital scales and a number of mobile phones. The applicant also had .018 grams of methylamphetamine and a small metal spoon in her handbag. The applicant was arrested, declined to be interviewed and was granted bail the following day. Still she continued carrying on her trafficking business.

[13] On 30 January 2014 the police intercepted a hire car which the applicant had been the driver of, although the applicant was not then present. Methylamphetamine weighing .831 grams was found in the vehicle. The applicant's fingerprints were found on the vehicle. Her possession of the methylamphetamine in the motor vehicle was the subject of the simpliciter charge of possession of methylamphetamine on count 2 of the indictment to which she pleaded guilty.

[14] On 16 February 2014, the final active day of the trafficking period, police located the applicant and found .331 grams of methylamphetamine in her handbag. She was arrested and declined to participate in an interview with police. She was granted bail and on 12 May 2014 was arrested for the offences on which she was later indicted. She declined to participate in an interview with police.

[15] She was remanded in custody until 5 January 2015 when she received bail. That period of presentence custody of 238 days, or almost eight months, did not relate solely to the matters in respect of which she was sentenced and could not be the subject of a pre-sentence custody declaration under s 159A(3C) *Penalties and Sentences Act* 1992 (Qld).

The applicant's personal circumstances

[16] The applicant was 25 years old at the time of her offending and 26 at the time of sentence. She had a minor criminal history and prior to the commencement of the trafficking period had only one conviction, for drug possession in early 2013.

[17] The applicant had a productive past work history until she became involved in a relationship with a man who used drugs and was abusive. During a period of separation from him she was sexually assaulted while stupefied by the effects of an illicit drug. She reunited with her partner but kept the assault secret from him. She resorted to the use of methylamphetamine to help her cope. She fell pregnant and, on learning of her pregnancy, ceased her illicit drug use. She gave birth but lost her baby aged two weeks to Sudden Infant Death Syndrome. Her drug use after her baby's death escalated to the point where she was using about a gram gross of methylamphetamine per day.

[18] No causal connection was expressly identified as between these unfortunate background features and the applicant's decision to carry on the business of trafficking in methylamphetamine. It is reasonable to infer the applicant's combined life crises and associated drug use would have adversely affected her judgment, explaining why a citizen who had been law abiding prior to 2013 exercised such poor judgment as to offend in this very serious way.

[19] A reference by a longstanding friend of the applicant, Ms Cox, was tendered on sentence. She described the applicant as one of the most friendly, talented and outgoing members of their high school peer group. Ms Cox explained the applicant withdrew from contact with her past friends when she became "caught up in a bad drug scene" but had since had re-established contact.

[20] Two reports were tendered on sentence. Both were procured while the applicant was on remand, well over a year before the eventual sentence, presumably for the purpose of applying for bail. A report by a sexual assault counsellor, Ms Eagleton, dated 16 December 2014, explained the applicant had been given trauma counselling addressing "past issues relating to interpersonal trauma and the complex grief and loss of her two week old daughter to SID's (sic) in late 2013 and the impact this has had on her life". Ms Eagleton reported the applicant had expressed a commitment to make substantial changes to her life.

[21] The other report, dated 29 December 2014, was by Dr Hatzipetrou, a clinical psychologist who consulted with the applicant during her time on remand. He opined she had a "cluster of symptoms consistent with post-traumatic stress disorder and secondary protracted bereavement". He noted she had re-established contact with her parents who had funded the commencement of psychological treatment of her on remand. The report noted that if the applicant "were to maintain her abstinence from illicit drugs and access functional social supports in the community" she would "likely benefit from frequent and evidence based psychological treatment over the course of twelve to fifteen sessions". No further information was advanced on her behalf at sentence as to any further treatment or counselling received by her when she was subsequently released on bail on 5 January 2015.

[22] On 11 April 2015, having been on bail for three months, the applicant committed the offence of possessing property suspected of having been used in connection with a drug offence, for which she was fined when eventually sentenced on 9 March 2016.

[23] After her further offending in April 2015, the applicant gained employment, doing bookwork for a small furniture business. She had been in employment for about 12 months prior to the date of sentence and her employment was said to have "been the best rehabilitation for her". A character reference from her employer spoke of a "huge change" and "tremendous growth" in the applicant in the course of her employment, explaining she had assumed major responsibilities in the business, including in providing guidance to other employees. The reference also spoke of the applicant's active engagement in a local surf lifesaving club of which her employer was a member.

[24] It is noteworthy that most of the approximately year long period of rehabilitative progress in employment, upon which the applicant placed emphasis at first instance and in this application, was only available to the applicant by reason of her prolonged delay in deciding to plead guilty.

The sentence proceeding

[25] The two-count indictment was presented on 29 May 2015. The matter was thereafter reviewed five times without apparent progress. On the sixth review, on 25 September 2015, the matter was listed as trial number 6 in the week commencing 22 February 2016. On 24 February 2016, during the week the trial was listed for, the trial was delisted. On 4 March 2016, almost 10 months after the indictment was presented, the applicant was arraigned and pleaded guilty. The charges in the indictment and the particulars of the trafficking had not changed in the interim.[1] These were therefore not early or even timely pleas of guilty. On 18 March 2016 the matter was listed for sentence on 18 May 2016 and the sentence eventually proceeded on 19 May 2016.

[26] In sentencing the applicant the learned sentencing judge indicated that while her guilty pleas did not represent examples of entering pleas at the earliest possible opportunity, he nevertheless proposed to give her credit for having pleaded guilty to the offences and thereby assisted in the administration of justice.

[27] His Honour summarised the evidence of the applicant's offending noting, inter alia, that she was a level above a street dealer, being a link in the drug chain between wholesalers and street-level dealers, selling methylamphetamine to others for them to on-sell. He noted there was a degree of sophistication to the applicant's operation, particularly her concealment strategies. His Honour inferred that the applicant's motivation for selling methylamphetamine was her own financial gain, although he also noted the absence of any evidence of unexplained income or accumulated assets. He observed the applicant had persisted in her drug-trafficking business even after having come to the attention of police and been placed on bail.

[28] The learned sentencing judge referred to the applicant's abusive relationship, sexual assault, loss of her baby and drug use, indicating he had regard to the reports tendered on sentence. He noted the applicant had re-established contact with her parents and close family. He had careful regard to the reference provided by her employer, concluding the applicant had "taken the opportunity to get on the road to rehabilitation".

[29] His Honour noted he needed to fix an appropriate sentence having regard to the applicant's efforts at rehabilitation and what she had done since her release from custody, as well as the circumstances that led to her offending. He emphasised though that the determination of an appropriate sentence did not involve only taking the

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1 AB 13 L5.

applicant's personal circumstances into account. His Honour noted he had to impose a sentence which reflected the seriousness of the applicant's role as a cog in the machinery of getting drugs from drug wholesalers down to street-level dealers and out into the community.

[30] The learned sentencing judge referred to a number of comparative cases to which he had been referred, noting those of most assistance were *R v Reid*,[2] and *R v Barton*[3] (discussed below). His Honour suggested, having regard to those cases, that but for considerations of moderation the applicant could have expected to receive a head sentence "in the order of six years or even up to seven years". In imposing a lower head sentence than that his Honour said:

> "I should also say this: in setting the head sentence of five years, I expressly take into account the fact that you have spent some eight months already in custody."[4]

[31] His Honour went on to explain that he also took into account the eight months of undeclarable pre-sentence custody in moderating the time to be served before suspension, down to 12 months.[5]

Discussion

[32] The complaint in the applicant's ground of appeal, that the learned sentencing judge did not ameliorate the sentence to any extent for the applicant's rehabilitation, is unsustainable. It appears to result from excessive focus on that part of his Honour's sentencing remarks in which he explained how he was taking the applicant's undeclarable pre-sentence custody into account.[6] In the paragraph immediately preceding that explanation, his Honour referred to a variety of other considerations he was taking into account, one of which he expressly identified as the applicant's "efforts at rehabilitation".[7] Moreover, earlier in the sentencing remarks his Honour referred to the applicant's rehabilitative progress and indicated it was one of a number of matters in the applicant's favour he would take into account.[8]

[33] That his Honour proceeded to suspend the five year sentence of imprisonment after only one fifth of that time is powerful evidence that he did, as he said he would, take the applicant's rehabilitative progress into account in fixing an appropriate sentence. So too is the fact that his Honour opted at all for a partly suspended sentence. Had he not done so the otherwise mandatory requirement of s 5(2) *Drugs Misuse Act* 1986 would have taken effect and the applicant would have had to serve four-fifths of any term of imprisonment imposed upon her. It is implicit in his Honour's decision to opt for a partly suspended sentence, leaving the applicant without any formal supervision in the community on her release, that he must have had regard to the applicant's good rehabilitative progress in the year preceding sentence.

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2 [2013] QCA 190.
3 [2006] QCA 367.
4 AB 31 L41.
5 Moderating the sentence which would otherwise have been imposed, so as to take into account time already served in custody on remand was the orthodox approach to take in circumstances where that time on remand could not be the subject of a pre-sentence custody declaration under s 159A(3C) *Penalties and Sentences Act*. See for example, *R v Skedgwell* [1999] 2 Qd R 97, *R v Ainsworth* [2000] QCA 163, *R v Cannon* [2005] QCA 41, *R v Fabre* [2008] QCA 386.
6 AB 31 LL37-46.
7 AB 31 L27.
8 AB 30 LL21-31.

[34] In the course of submissions before this court it became apparent the applicant was really relying upon her rehabilitative progress as a feature of the case supporting her argument that the sentence was manifestly excessive. Another such feature emphasised in the same context was the significant cluster of life crises, including the loss of her baby, which befell the applicant prior to her offending. However, neither feature was so compelling as to warrant a material departure from ordinary sentencing patterns and the primacy usually given to general deterrence in sentencing those who carry on the business of trafficking in dangerous drugs.[9] As already mentioned, the applicant's pre-offence life crises were not causally connected with the offending other than in the sense they adversely affected her judgment. As to the applicant's progress towards rehabilitation once employed, most of it occurred during an era of delay in progressing the case occasioned by the applicant's prolonged delay in indicating she would plead guilty. Where an offender's opportunity to engage in rehabilitative progress is occasioned by a delay in disposition of the case of the offender's own making, that rehabilitative progress will usually carry less significance in mitigation than it would were the offender not responsible for the delay.[10]

[35] In any event the partial suspension of the applicant's sentence demonstrates the applicant's mitigating circumstances were taken into account. It ensured she would be released from custody after a proportionately small period of the head sentence, even allowing for her approximately eight months of undeclarable pre-sentence custody. The latter point is readily illustrated. Allowing for the remand period, rounded to eight months, the head sentence of five years should be regarded as an effective head sentence of five years and eight months, or 68 months. Had his Honour required the applicant to serve say one third, or $22^{2/3}$ months, of that period prior to suspension, that would have resulted, after the reduction of the $22^{2/3}$ months by the eight months already served, in a suspension after $14^{2/3}$ months. In the end result the sentence was suspended even earlier, after 12 months. Adding the eight months served this represents an effective suspension after 20 months. The total amount of actual jail time required to be served is therefore less than one-third of the effective head sentence.

[36] This appears to represent a very generous discount in a case where the applicant trafficked above street level, was on bail during part of the trafficking period and only pleaded guilty belatedly. On the face of it, the learned sentencing judge appears to have been quite merciful in the balance he struck between the weight given to the applicant's personal circumstances and the need to deter those minded to traffic in methylamphetamine. The applicant's position is that this impression of leniency is illusory because it is only lenient relative to the head sentence and that sentence is allegedly so high as to bespeak error.

[37] Before turning to other cases for guidance as to range three points should be emphasised. First, the sentence actually imposed here of five years' imprisonment suspended after 12 months requires some adjustment for comparison purposes because of the period of undeclared pre-sentence custody. Allowing for that period as part of the sentence the effective sentence which falls for consideration is five years and eight months suspended after 20 months. Second, it is the whole of the sentence which falls for comparative consideration, not just the head sentence. The partial suspension of the sentence in this case forms part of the overall sentence imposed and its tempering

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9 See, for example, *R v Tilley; ex parte Attorney General* [1999] QCA 424, *R v Willoughby* [2009] QCA 105, [48].

10 *R v Alt* (2013) 236 A Crim R 486, 497.

effect is relevant in considering whether the sentence is manifestly excessive having regard to other cases. Third, for the applicant to succeed on the ground the sentence is manifestly excessive it is necessary not merely to show some disparity with sentences in like cases but that the difference is so marked as to compel the conclusion there must have been a misapplication of principle which is not apparent from the sentencing reasons.[11] None of the comparable cases raised in argument compel such a conclusion.

[38] In *R v Barton*[12] the applicant pleaded to trafficking in methylamphetamine and other lesser drug offences. She was 24 at the time of the offences and had a minor criminal history. The charge of trafficking was founded upon seven sales of methylamphetamine by her to an undercover police officer over a two and a-half month period. The total pure weight sold was 26.608 grams and the total of the purchase prices paid was $14,700. Her seven year head sentence was described by this Court as being towards the high end of the range and this Court intervened only to the extent of adjusting her parole eligibility date, fixed at first instance after she had served two years and three months, downwards so that she would be eligible for parole after serving only 18 months. That adjustment was made to give greater recognition to that applicant's efforts at and good prospects of rehabilitation. The present applicant did not sell discrete amounts of methylamphetamine of quite the same quantity that Barton did, but on the other hand *R v Barton* did not involve evidence of as much sales activity and as many customers as the present case. In any event the applicant's effective head sentence of five years and eight months was materially less than Barton's seven years.

[39] In *R v McAway*[13] the applicant pleaded guilty, inter alia, to trafficking in MDMA and MDEA and possession of 600 MDMA tablets. She was only 19 and 20 during the six month period of her trafficking, during which her sales turnover was $18,000 and her profit, dissipated on her own drug-using lifestyle, was $9,000. She had been without previous convictions though was convicted of a minor drug offence on bail. She had otherwise progressed her rehabilitation well prior to her guilty plea. Her head sentence of five years with parole eligibility after 18 months was not disturbed, though described as towards the top of the range in the circumstances. However those circumstances were, overall, markedly more favourable than the present applicant's. Unlike the present applicant her guilty plea was a timely one. Moreover, the evidence of her trafficking turned solely upon her admissions, a very significant mitigating factor[14] not present here. Further to all of this, MDMA and MDEA were schedule 2 drugs at the time of *McAway*'s sentence, so she was facing lesser maximum penalties than the applicant.

[40] In *R v Baradel*[15] the applicant pleaded guilty to drug offences including trafficking in methylamphetamine and two counts of producing methylamphetamine. He was 22 during the four month trafficking period. He supplied or attempted to supply methylamphetamine on 61 occasions to 28 different customers. He sometimes sold in personal use amounts but more often sold in amounts between 1.75 and 3.5 grams, similar to the amounts typically sold by the present applicant. Baradel sourced his methylamphetamine from others as well as by producing it with a co-offender to sell. The sentencing judge there reduced a starting point of six years' imprisonment, because of an unexplained delay in the prosecution, during which good rehabilitative progress was made. The

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11 *Wong v The Queen* (2001) 207 CLR 584, 605 [58].
12 [2006] QCA 367.
13 [2008] QCA 401.
14 See *AB v The Queen* (1999) 198 CLR 111, 155.
15 [2016] QCA 114.

head sentence of five and a-half years' imprisonment with parole eligibility after about 21 months (one-third of the head sentence less one month pre-sentence custody) was not disturbed by this Court. This Court's reasons did not suggest Baradel's sentence was towards the top of an appropriate range. For present purposes *R v Baradel* is merely an example of a marginally younger but marginally more serious offender than the applicant receiving a broadly comparable sentence outcome to the applicant.

[41] In *R v Reid*[16] the applicant pleaded guilty to trafficking in methylamphetamine and a miscellany of other charges including drug offences, dishonesty offences and a summary offence of driving without a licence whilst disqualified. Additionally a further five drug related summary offences committed while Reid was on bail for the trafficking offence were taken into account pursuant to s 189 *Penalties and Sentences Act* 1992 (Qld). She received a sentence of five years and nine months' imprisonment for the trafficking and concurrent lesser terms for all of the other offending, except for the offence of driving without a licence whilst disqualified for which she received a cumulative sentence of one year imprisonment, giving rise to an overall period of imprisonment of six years and nine months. Her parole eligibility date was set at the one-third mark of that total. In the 52 day period of trafficking Reid was in contact with about 14 customers on a daily basis. She dealt in high quality methylamphetamine in 3.5 gram lots, that is, "eight ball" quantities. She had her own customers and also on-supplied drugs to two co-offenders which they in turn trafficked. Reid trafficked in order to finance and repay a debt incurred as a result of her own addiction. At first instance the sentencing judge considered the appropriate range for the trafficking charge was five to six years and favoured the six-year mark to take account of the array of other offences which were to attract concurrent lesser terms. The six years was then discounted by three months to accommodate the impact of the cumulative sentence imposed in respect of the offence of driving without a licence whilst disqualified (Reid was said to have an appalling traffic record).

[42] In the present matter the applicant sought to distinguish *Reid* on the basis of a reference in this Court's reasons to Reid having "headed a group of three drug traffickers". However one of that group was herself and the other two were, as mentioned, the persons to whom she on-supplied drugs which they in turn trafficked. The role of one of those co-offenders involved her acting as a bookkeeper and on occasions conducting actual deals. That Reid apparently trafficked with the assistance of two parties whereas the present applicant did not, is not a determinative point of distinction, particularly bearing in mind the present applicant's period of trafficking, in amounts similar to that trafficked in by Reid, was a little over twice that of Reid's. This Court did not disturb Reid's sentences nor did it suggest the sentencing judge had erred in considering an appropriate range for Reid's trafficking was five to six years' imprisonment.

[43] Reliance was also placed on *R v Taylor*,[17] *R v Tytherleigh*[18] and *R v Mullins.*[19] *Tytherleigh* and *Mullins* are not closely comparable to the present applicant in that those applicants were street-level dealers and were afforded special leniency because the evidence of their trafficking was based solely upon their own admissions. Their respective sentences, of four and a-half years' imprisonment with parole eligibility after 15 months and of four years' imprisonment with parole eligibility after 15 months, reflect a materially lower level of overall culpability than is present here.

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16 [2013] QCA 190.
17 [2005] QCA 379.
18 [2006] QCA 193.
19 [2007] QCA 418.

[44] The applicant in *R v Taylor* was also a street-level dealer. He too made admissions, although it is not clear from this Court's reasons whether they were in circumstances warranting special leniency. He was sentenced to five years' imprisonment suspended after two years. He trafficked in MDMA, then a schedule 2 drug, and to a lesser extent methylamphetamine, at street level. He made a profit of $7,000 from his 12 customers during a three-month trafficking period. His sentence, not disturbed on appeal, was for less serious offending than the present applicant's. His head sentence of five years does not suggest excess in the applicant's effective head sentence of five years and eight months. Moreover, the suspension of his sentence after two years required him to serve a longer period of actual custody than the present applicant, whose effective period of custody prior to suspension is 20 months. This again highlights the moderation extended to the present applicant on sentence.

[45] The above review of cases readily demonstrates the sentence imposed upon the applicant was comfortably within the range of a sound exercise of the sentencing discretion.

[46] The application for leave to appeal sentence should be refused.

[47] I would order:

Application for leave to appeal against sentence refused.