SUPREME COURT OF QUEENSLAND

CITATION:	*R v Dehghani* [2009] QCA 362
PARTIES:	**R** **v** **DEHGHANI, David John** (applicant)
FILE NO/S:	CA No 205 of 2009 SC No 354 of 2008 SC No 355 of 2008
DIVISION:	Court of Appeal
PROCEEDING:	Sentence Application
ORIGINATING COURT:	Supreme Court at Brisbane
DELIVERED ON:	27 November 2009
DELIVERED AT:	Brisbane
HEARING DATE:	17 November 2009
JUDGES:	Keane and Fraser JJA and Atkinson J Separate reasons for judgment of each member of the Court, each concurring as to the orders made
ORDERS:	**1. Application for leave to appeal against sentence refused** **2. The reasons for judgment of Keane JA handed down to the parties today and marked 'A' be not further published and a copy thereof be placed in a sealed envelope together with a transcript of that part of the proceedings which was not conducted in open court, and that it be opened only by order of the court or upon an application under s 188(2) of the *Penalties and Sentences Act* 1992 (Qld)**
CATCHWORDS:	CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – OTHER MATTERS
COUNSEL:	S Di Carlo for the applicant G R Rice for the respondent
SOLICITORS:	K A Taylor for the applicant Director of Public Prosecutions (Commonwealth) for the respondent

[1] **KEANE JA:** On 3 November 2008 the applicant was convicted on his own plea of one count of importing a commercial quantity of a border controlled drug,

3,4-Methylenedioxymethamphetamine ("MDMA"). This offence was committed between 15 January 2007 and 8 February 2007.

[2] On 24 July 2009 the applicant was convicted on his own plea of:

- one count of structuring two or more transactions so as to avoid reporting conditions in contravention of s 31(1) of the *Financial Transaction Reports Act* 1988 (Cth);

- one count of structuring two or more transactions so as to avoid reporting conditions in contravention of s 142(1) of the *Anti-Money Laundering and Counter-Terrorism Financing Act* 2006 (Cth); and

- one count of dealing with the proceeds of crime to a value of more than $100,000 in contravention of s 400.4(1) of the *Criminal Code* 1995 (Cth).

The first of these offences was committed between 25 September 2006 and 12 December 2006. The second offence was committed between 13 December 2006 and 3 January 2007. The third offence was committed between 24 October 2006 and 5 January 2007.

[3] On 24 July 2009 the applicant was sentenced to imprisonment for 10 years and 10 months with a non-parole period of six years and six months in respect of the drug importing offence. He was also sentenced to concurrent terms of imprisonment of two years for each of the other offences. A period of 897 days spent in pre-sentence custody was declared, pursuant to s 159A of the *Penalties and Sentences Act* 1992 (Qld), to be time already served under the sentence.

[4] The applicant seeks leave to appeal against his sentence on the ground that the sentence was manifestly excessive. The only sentence in respect of which, as a practical matter, the Court might grant leave to appeal is the sentence imposed for the drug offence. That is the only sentence to which argument was addressed by Mr Di Carlo of Counsel who appeared for the applicant. In this regard, it is argued that the notional starting point of the sentence was too high and that the discounts allowed to the applicant were insufficient. In the end I have concluded that these arguments should not be accepted and that the application for leave to appeal should be dismissed.

[5] Consideration of the arguments agitated on behalf of the applicant requires reference to matters which were dealt with "in camera" at Mr Di Carlo's request. The balance of these reasons will, therefore, be made available only to the parties.

Conclusion and order

[6] I reject the applicant's challenges to the sentence imposed in this case. The applicant has not demonstrated that his sentence for the offence of drug importation was manifestly excessive.

[7] In my opinion the orders which the Court should make are:

1. The application for leave to appeal against sentence should be refused.

2. The reasons for judgment of Keane JA handed down to the parties today and marked 'A' be not further published and that a copy thereof be placed in a

sealed envelope together with a transcript of that part of the proceedings which was not conducted in open court, and that it be opened only by order of the court or upon an application under s 188(2) of the *Penalties and Sentences Act* 1992 (Qld).

[8] **FRASER JA:** I agree with the reasons for judgment of Keane JA and the orders proposed by his Honour.

[9] **ATKINSON J:** I agree with the orders proposed by Keane JA and with his Honour's reasons.