

IN THE SUPREME COURT OF NEW ZEALAND

SC 97/2014
[2014] NZSC 163

BETWEEN COLLINS EZE
 Applicant

AND THE QUEEN
 Respondent

Court: McGrath, William Young and Glazebrook JJ

Counsel: M P Hislop for the Applicant
 J E L Carruthers and K J Cooper for Respondent

Judgment: 12 November 2014

JUDGMENT OF THE COURT

The application for leave to appeal is dismissed.

REASONS

[1] Mr Eze was found guilty at trial on two counts: one of importing methamphetamine and one of possession of methamphetamine for supply. He was sentenced by Judge Perkins to 11 years' imprisonment, with a 50 per cent minimum period of imprisonment.¹ His appeal against his sentence was dismissed by the Court of Appeal.² Mr Eze now seeks leave to appeal to this Court on the grounds that:

- (a) the Court of Appeal should not have upheld Judge Perkins' starting point of 12 years;

¹ *R v Eze* DC Auckland CRI-2010-092-7088, 26 October 2012 (sentencing notes).

² *Eze v R* [2013] NZCA 529 (Miller, Venning and Andrews JJ).

- (b) the Court of Appeal erred in its conclusion there was no unjustifiable disparity between Mr Eze's sentence and that of one of his co-offenders, Ms Peneha; and
- (c) there was a substantial miscarriage of justice as Mr Eze did not receive credit for his co-operation with the police that led to the arrest and prosecution of another of his co-offenders, Mr Olua.

[2] The first two grounds were raised in, and dealt with by, the Court of Appeal. Mr Eze has not raised anything that suggests that that Court's analysis of those points may have been wrong.

[3] As regards the third ground, this was not raised in the Court of Appeal. For leave to be granted in such a case, an applicant must satisfy the Court that there is a real risk of a miscarriage of justice.

[4] No further material in support of this ground has been put before the Court. This means that we deal with this ground on the material that was before the District Court.

[5] At sentencing, Judge Perkins had been told that Mr Eze provided assistance to locate a co-offender and that he had been singled out in prison for providing this assistance. No further details of the nature and degree of any personal risk faced in prison were provided.

[6] At sentencing, the discount of 12 months related to Mr Eze's remorse and the hardship of prison to him as a foreigner. Judge Perkins did not consider there were other mitigating factors that justified a discount.³

[7] As the Crown points out, the assistance Mr Eze provided to the police was limited, as he provided only partial details of Mr Olua's identity. Police used this partial information, together with information received from Ms Peneha, to conduct

³ The Judge was aware of the assistance and mentioned it in his sentencing remarks: *R v Eze*, above n 1, at [27].

their own inquiries to identify Mr Olua. Mr Eze also offered police information while on remand but this information was deemed self-serving and not acted upon.

[8] We accept the Crown's submission that nothing raised by Mr Eze has shown a risk that Judge Perkins was wrong to conclude that any assistance provided did not warrant a further reduction in sentence.

[9] Overall, we do not consider that the interests of justice require that we hear and determine the proposed appeal. Further, there is no risk of a miscarriage of justice.

[10] The application for leave to appeal is dismissed.

Solicitors:
Crown Law Office, Wellington for the Respondent