CITATION:	*The Queen v Cumberland* [2019] NTCCA 14
PARTIES:	THE QUEEN v CUMBERLAND, Jesse
TITLE OF COURT:	COURT OF CRIMINAL APPEAL OF THE NORTHERN TERRITORY
JURISDICTION:	CRIMINAL APPEAL from the SUPREME COURT exercising Territory jurisdiction
FILE NO:	CA 9 of 2018 (21719767)
DELIVERED:	19 June 2019
HEARING DATE:	18 July 2018
JUDGMENT OF:	Kelly, Barr and Hiley JJ

CATCHWORDS:

CRIMINAL LAW – Crown appeal against sentence – whether manifestly inadequate – supply of 60 times commercial quantity of cannabis over a nine month period – objective seriousness – quantity of the drug a very significant factor – sentence manifestly inadequate

CRIMINAL LAW – Crown appeal against sentence – whether manifestly inadequate – supply of 19 times commercial quantity of MDMA over an eight month period – policy based legislative decision to place a drug in Schedule 1 of the *Misuse of Drugs Act* and to fix the quantities of each drug considered of equal seriousness by reference to the traffickable and commercial quantities specified in the Schedule – prima facie possession or supply of a commercial quantity of any Schedule 1 drug equally serious as possession or supply of any other Schedule 1 drug – likewise possession or supply of comparable multiples of commercial quantity of any Schedule 1

drug – the maximum penalty fixed by reference to the quantities in the Schedules not the only relevant consideration – objective seriousness – distribution for commercial purposes – significance of general deterrence – sentence manifestly inadequate

Sentencing – 70% minimum non-parole period – whether applying to offences committed prior to the amendment of s 55 *Sentencing Act* – referred to Full Court of five judges

Sentencing – 70% minimum non-parole period – multiple offences – whether applying to offences specified in s 55 *Sentencing Act* or to total effective sentence imposed – referred to Full Court of five judges

Customs Act
Evidence (National Uniform Legislation) Act s 144(1)
Justice Legislation Amendment (Drug Offences) Act (NT)
Misuse of Drugs Act (NT) ss 5(2)(da), 5(2)(g), Schedule 1
Sentencing Act (NT) s 55

The Queen v Meginess [2019] NTCCA 5, *Adams v The Queen* [2008] HCA 15; 234 CLR 143, *Ibbs v The Queen* [1987] HCA 46; 163 CLR 447, *R v Indrikson* [2014] NTCCA 10, *R v Roe* [2017] NTCCA 7, *R v Stamatov* [2017] QCA; 268 A Crim R 83, *Winstead v The Queen* [2009] NTCCA 12, applied

Clarke v The Queen [2009] NTCCA 5, *Cook v The Queen* [2018] NTCCA 5, *R v Carey* [1998] 4 VR 13; (1997) 97 A Crim R 552, *R v Chopping & Muir* (Unreported, Supreme Court of the Northern Territory, Kelly J, 15 September 2017)*R v Clark* (Unreported, Supreme Court of the Northern Territory, Thomas J, 7 February 2007), *R v Cowen* (Unreported, Supreme Court of the Northern Territory, Kelly J, 20 December 2013), *R v Maddox* (Unreported, Supreme Court of the Northern Territory, Mildren J, 16 July 2010), *R v Morris* (Unreported, Supreme Court of the Northern Territory, Kelly J, 6 November 2009), *R v Mason* (Unreported, Supreme Court of the Northern Territory, Riley CJ, 17 March 2016), *R v Neilson* (Unreported, Supreme Court of the Northern Territory, Thomas J, 5 October 2004), *R v Sariago* (Unreported, Supreme Court of the Northern Territory, Mildren J, 3 April 2012), *R v Siganto* (Unreported, Supreme Court of the Northern Territory, Kelly J, 7 February 2014), *R v Talitimu* (Unreported, Supreme Court of the Northern Territory, Blokland J, 17 August 2017), *R v Thompson*

(Unreported, Supreme Court of the Northern Territory, Grant CJ, 14 November 2018), referred to

REPRESENTATION:

Counsel:

Appellant:	M Nathan SC
Respondent:	M Thomas

Solicitors:

Appellant:	Director of Public Prosecutions
Respondent:	John Toohey Chambers

Judgment category classification:	B
Number of pages:	17

IN THE SUPREME COURT
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT DARWIN

The Queen v Cumberland [2019] NTCCA 14
No. CA 9 of 2018 (21719767)

BETWEEN:

THE QUEEN
Appellant

AND:

JESSE CUMBERLAND
Respondent

CORAM: KELLY, BARR and HILEY JJ

REASONS FOR JUDGMENT

(Delivered 19 June 2019)

THE COURT

Background

[1] The respondent pleaded guilty to six counts:

(a) Count 1: unlawfully supplying cannabis plant material to a child between 16 April 2015 and 1 January 2016, contrary to ss 5(1) and (2)(a)(iii) of the *Misuse of Drugs Act 1990* (NT) (as in force until 18 July 2016);

(b) Count 2: supplying a commercial quantity of cannabis plant material between 17 July 2016 and 25 April 2017, contrary to s 5(1) of the *Misuse of Drugs Act 1990* (NT) (as in force from 18 July 2016);

(c) Count 3: receiving $368,120 cash, knowing the property was obtained directly from the supply of cannabis plant material, between 17 July 2016 and 25 April 2017, contrary to s 8(1) of the *Misuse of Drugs Act*;

(d) Count 4: supplying a commercial quantity of MDMA between 21 August 2016 and 25 April 2017, contrary to s 5(1) of the *Misuse of Drugs Act*;

(e) Count 5: receiving $45,375 cash, knowing the property was obtained directly from the supply of MDMA, between 21 August 2016 and 25 April 2017, contrary to s 8(1) of the *Misuse of Drugs Act*; and

(f) Count 6: possessing $8,060 cash, knowing the property was obtained directly from the supply of a dangerous drug on 25 April 2017, contrary to s 8(1) of the *Misuse of Drugs Act*.

He was sentenced to 4 years and 6 months imprisonment to be suspended after 2 years, reduced from 6 years on account of his plea of guilty. The sentence was backdated to commence on 27 June 2017 to reflect time spent in custody and some time spent on bail.

[2] In summary, the facts of the offending were these.

(a) Count 1: The respondent, who was 20 and 21 years old at the time of this offending, supplied cannabis multiple times and in various quantities, such as 7, 14 or 28 grams, to a 16 year old girl, knowing that she was a child, over a period of four months between 16 April 2015

and 1 January 2016. The total amount supplied is unknown but was less than a commercial quantity.

(b) Counts 2 and 3: The respondent supplied 30.078 kilograms of cannabis (ie 60 times the commercial quantity) over a nine month period receiving $368,120 cash (of which $61,676 was profit) and possessed a further 451.77 grams of cannabis for the purpose of supply.

(c) Counts 4 and 5: The respondent supplied 478.4 grams of MDMA (ie 19 times a commercial quantity) over an eight month period receiving $45,375 cash (of which $13,285 was profit) and possessed a further 0.66 grams of MDMA for supply.

(d) Count 6: The respondent possessed $8,060 cash from the sale of dangerous drugs, located by police during the execution of the search warrant at his residence.

The facts constituting counts 1 to 5 were ascertained from a journal in which the respondent recorded his drug transactions including the names of the purchasers, amounts received and amounts paid. From this it is known that the whole of the money the subject of count 3 was received as a result of the supply of cannabis the subject of count 2 and the whole of the money the subject of count 5 was received from the supply of the MDMA the subject of count 4.

[3] The maximum penalty for each of counts 1 and 2 is 14 years imprisonment. The maximum penalty for each of counts 3 to 6 is 25 years imprisonment.

[4] The Crown appealed against the sentence imposed on the ground that it is manifestly inadequate. On 2 August 2018, we allowed the appeal, with reasons to be delivered at a later date. These are those reasons.

The parties' submissions

[5] The appellant contended that the respondent's offending was objectively serious. The respondent was engaged in the commercial supply of dangerous drugs. He was a principal in a supply network, responsible for sourcing, packaging and distributing large quantities of two different drugs over the period of nine months the subject of counts 2 to 6. From time to time he enlisted the assistance of others. He supplied into the community over 30 kilograms of cannabis (61 times the commercial quantity) and 478.4 grams of MDMA (19 times the commercial quantity), making a profit of about $75,000. (His turnover was considerably higher.)

[6] The appellant relied on remarks of the Court of Criminal Appeal in *Winstead v The Queen*[1] ("*Winstead*") and *R v Indrikson*[2] ("*Indrikson*")to the effect that, while not generally the chief factor in sentencing, in some circumstances the quantity of the dangerous drug will be a very significant factor. The appellant submitted that in this case the quantity of cannabis

---

1 [2009] NTCCA 12 at [13]

2 [2014] NTCCA 10 at [27]

ought to have been an important factor in assessing the objective seriousness of the supply of cannabis; inadequate weight was given to that factor and this led to the imposition of a sentence that was manifestly inadequate.

[7] In *Winstead* the applicant for leave to appeal had pleaded guilty to possessing 28.846 kilograms of cannabis plant material, slightly less than the quantity supplied by the respondent. He was convicted and sentenced to 6 years imprisonment with a non–parole period of 4 years and 6 months. His application for leave to appeal, on the ground that the sentence was manifestly excessive, was dismissed. In the leading judgment, Southwood J (with whom Martin (BR) CJ and Kelly J agreed) said: "Although the weight of the drug is not generally the chief factor to be taken into account in fixing a sentence, in this case it was a very significant factor."[3] His Honour also commented: "The sentencing Judge was required to sentence the applicant on the facts known to him, the most significant of which was the weight of the cannabis."[4] (The appellant was storing the cannabis for someone else, described as a major drug dealer, for an unknown reward.)

[8] In *Indrikson*,[5] the respondent was sentenced to 4 years and 2 months imprisonment for unlawfully supplying 67 kilograms of cannabis, which is 134 times the commercial quantity of the dangerous drug, and to 9 months imprisonment for possessing a traffickable quantity of methamphetamine.

---

3 [2009] NTCCA 12 at [13]

4 [2009] NTCCA 12 at [16]

5 [2014] NTCCA 10

The second sentence was ordered to be served wholly concurrently with the first sentence giving a total sentence of 4 years and 2 months imprisonment with a non-parole period of 2 years and 1 month. The Court of Criminal Appeal upheld the Crown appeal, finding the sentence to be manifestly inadequate. The respondent was re-sentenced, after allowing a 20 percent reduction, to 8 years imprisonment with a non-parole period of 4 years for the offence of supplying a commercial quantity of cannabis. (The sentence for count 2 remained the same and remained wholly concurrent.) In this case, too, the quantity of the drug was said to be "an important factor to be taken into account … when assessing the objective seriousness of the offence".[6]

[9] We agree that a substantial sentence of imprisonment was warranted for the offence of supplying 60 times the commercial quantity of cannabis over a nine month period.

[10] The appellant also contended that the sentence for count 4 (the supply of MDMA) was out of kilter with the remarks of the Court of Criminal Appeal in *R v Roe*[7] ("*Roe*"). The majority judgment set out at [49] the factors relevant to an assessment of moral culpability and objective seriousness in methamphetamine cases.

> The assessment of moral culpability and objective seriousness in these circumstances requires consideration of the following relevant factors:

---

6 [2014] NTCCA 10 at [27]

7 [2017] NTCCA 7

> the great social consequences that follow from the commission of the offence; the existence of a commercial venture in the supply of drugs; the role of the offender in that enterprise; the level of his or her participation in the offence; the reward which the offender hoped to gain from participation in the offence; the difficulty in detecting the offence; and the quantity of drugs involved.

[11] Addressing those factors, the appellant submitted:

(a) the deleterious social consequences of Schedule 1 drugs are well known;

(b) the respondent engaged in the commercial supply of a Schedule 1 substance for profit;

(c) these offences are difficult to detect – but for the respondent's meticulous records (in form of ledgers but also the recorded video footage), the extent of the respondent's supply operation would have been unknown; and

(d) the quantity of MDMA actually supplied was well in excess of a commercial quantity.

[12] Deference needs to be paid to the policy based legislative decision to place a drug in Schedule 1 of the *Misuse of Drugs Act*, and to the legislative decision to fix the quantities of each particular drug which will be considered of equal seriousness to differently specified quantities of other drugs, by reference to the traffickable and commercial quantities of those drugs specified in the Schedules. Prima facie, possession or supply of a

commercial quantity of any Schedule 1 drug should be treated as equally serious as possession of any other Schedule 1 drug, and, likewise, possession or supply of, say, ten times the commercial quantity of any Schedule 1 drug should be seen as just as serious as possession or supply of ten times the commercial quantity of any other Schedule 1 drug.[8]

[13] That is not to say that the maximum penalty fixed by the legislature, by reference to the quantities set out in the Schedules, is the only relevant consideration. The High Court stated in *Adams v The Queen:* "Of course, the fixing of a maximum penalty is not the end of the matter, as was emphasised in *Ibbs v The Queen*."[9]

[14] In *Ibbs v The Queen*,[10] the High Court said:

> When an offence is defined to include any of several categories of conduct, the heinousness of the conduct in a particular case depends not on the statute defining the offence but on the facts of the case.

[15] Also, the principles set out in s 5 of the *Sentencing Act* apply to sentencing for drug offences as much as to any other kind of offence. As well as the nature and seriousness of the offence, the effect on the victim and a range of matters personal to the offender, those principles include:

- any harm done to a community as a result of the offence (whether

---

8 *R v Meginess* [2019] NTCCA 5 at [18] to [23]; *Adams v The Queen* [2008] HCA 15; 234 CLR 143 at 147 [6], 148 [10] and 148 [11] per Gleeson CJ, Hayne, Crennan and Kiefel JJ ("*Adams*"); *R v Stamatov* [2017] QCA 158; 268 A Crim R 83 at 95 [54] and 98 [65]

9 *Adams* (2008) 234 CLR 143 at 148 [11]

10 [1987] HCA 46; 163 CLR 447 at 452

directly or indirectly);[11] and

- the prevalence of the offence.[12]

[16] The court can take into account its own knowledge of the prevalence of particular offences, and can take judicial notice of certain kinds of harm to the community which are notorious, to the extent of being "knowledge that is not reasonably open to question" and "common knowledge" in the local Northern Territory community.[13] For example, sentencing judges in this jurisdiction regularly take into account the harm visited upon vulnerable members of Aboriginal communities, children in particular, when scarce money is spent on buying cannabis at inflated prices.

[17] It is in light of these principles that the following statement of the Court of Criminal Appeal in *Roe*[14] should be considered:

> The supply and use of methamphetamine are matters of widespread concern in the community. Such offending is prevalent. The supply and use of the drug has an immediate and primary impact on individual users who suffer adverse physical and mental health outcomes. Methamphetamine use also has obvious and predictable adverse consequences for the family of the individual user. The proliferation of the drug is also detrimental to the wider community, as use of the drug quickly leads to antisocial and criminal conduct including violent behaviours. As a consequence, punishment, denunciation and deterrence are the main sentencing objects.

---

11 *Sentencing Act* s 5(2)(da)

12 *Sentencing Act* s 5(2)(f)

13 *Evidence (National Uniform Legislation) Act* s 144(1)

14 [2017] NTCCA 7 [47]

[18] These remarks, to some extent, state the implications of the policy based legislative decision to place the drug in Schedule 1 of the *Misuse of Drugs Act*; to some extent they state matters of which the court is entitled to take judicial notice; and to some extent they are an assessment the court is entitled to make, for sentencing purposes, of the prevalence of the offending based on the court's experience of the frequency with which such matters come before the court. They are not intended as a comparison of the seriousness of a charge of possession or supply of methamphetamine with the seriousness of a charge of possession or supply of other Schedule 1 drugs.

[19] The respondent conducted a drug trafficking business supplying large quantities of two different drugs over a continuing period of time, for substantial amounts of money. Substantial terms of imprisonment are warranted on both counts 2 and 4.

[20] The respondent was a very young man at the time of the commission of the offences (20-22 years of age) with no relevant prior convictions and the sentencing judge was entitled to take that into account. There was also evidence that the respondent had been the victim of a serious violent offence when he was 15 which contributed to his use of drugs and alcohol to manage his symptoms but which caused him to develop a drug dependency and that this contributed, albeit very indirectly, to his becoming a supplier of drugs. The sentencing judge noted that indirect connection, but also noted that "it did not explain the very high level greed based offending".

[21] However, it is well established that for offences involving drug distribution for commercial purposes the pre-eminent sentencing consideration is that of general deterrence.[15] In such cases considerations of rehabilitation must, in general, play a significantly reduced role as such offenders have made an informed choice to engage in serious criminal offending for profit.[16]

[22] We agree that, given the objective seriousness of the offending, even after the application of the principle of totality, and due allowance for the appellant's youth and lack of prior convictions, the starting point of 6 years imprisonment was manifestly inadequate.

[23] Accordingly we announced on 2 August 2018 that the appeal is allowed.

Resentence

[24] All of the offending, including the supplying of the cannabis to the 16 year old child, was serious offending. Punishment, denunciation and general deterrence play an important role in the sentencing process. We take into account the matters of mitigation identified by the sentencing judge including the youth of the respondent, his health and psychological issues particularly following the violent assault on him when he was 15, his reasonable work history and favourable references.

[25] In relation to count 1 we have reviewed other sentences imposed in this jurisdiction for offending under ss 5(1) and (2)(a)(iii) of the *Misuse of*

---

15 *Clarke v The Queen* [2009] NTCCA 5 [46]; *R v Carey* (1997) 97 A Crim R 552, 556 per Winneke P

16 *Roe* [2017] NTCCA 7 [53] and [101]; *Cook v The Queen* [2018] NTCCA 5 at [25] to [27]

Drugs Act – now repealed and replaced by ss 5C(1) and (2) – namely the unlawful supply of cannabis of an amount less than a commercial quantity by an adult to a child. Putting aside some of those involving a single supply,[17] usually of a very small amount, the following sentences are useful for comparative purposes.

(a) In the matter of *R v Neilson*[18] the 19 year old offender was sentenced to 18 months imprisonment after a 25% discount for selling to a 15 year old boy a plastic clip-seal bag containing 1.5 grams of cannabis.

(b) In the matter of *R v Clarke*[19] the 52 year old offender was sentenced to 3 years imprisonment after discount for three counts that comprised him supplying a 16 year old girl on the one night with an ecstasy tablet, cannabis in a bong, and a further half of an ecstasy tablet.

(c) In the matter of *Rioli v The Queen*[20] the Court of Criminal Appeal upheld an appeal against a sentence of 2 years and 3 months imprisonment and declared that the appropriate sentence should have been 14 months imprisonment after allowing a discount of 4 months because of the appellant's pleas of guilty. The 15 year old girl had attended at the 46 year old appellant's home in Pirlangimpi, an

---

17 These include *R v Morris* (Unreported, Supreme Court of the Northern Territory, Kelly J, 6 November 2009); *R v Maddox* (Unreported, Supreme Court of the Northern Territory, Mildren J, 16 July 2010); *R v Sariago* (Unreported, Supreme Court of the Northern Territory, Mildren J, 3 April 2012); *R v Cowen* (Unreported, Supreme Court of the Northern Territory, Kelly J, 20 December 2013); *R v Talitimu* (Unreported, Supreme Court of the Northern Territory, Blokland J, 17 August 2017)

18 *R v Neilson* (Unreported, Supreme Court of the Northern Territory, Thomas J, 5 October 2004)

19 *R v Clark* (Unreported, Supreme Court of the Northern Territory, Thomas J, 7 February 2007)

20 [2010] NTCCA 13

Aboriginal community, on three occasions during a period of 4 months and on each occasion smoked two or three bongs of cannabis which had been given to her by the appellant.

(d) In the matter of *R v Siganto*[21] the offender was sentenced to 2 years and 4 months imprisonment after a 20% discount for giving eight deal bags of cannabis to a 16 year old girl for her to sell on the offender's behalf.

(e) In the matter of *R v Mason*[22] the 56 year old offender was sentenced to 18 months imprisonment after a 25% discount for three related offences, one of which involved him giving the 17 year old son of his adopted daughter 60 satchels of cannabis to sell at Elcho Island on his behalf.

(f) In the matters of *R v Chopping & Muir*[23] the offenders sold cannabis to a 14 year old child on 4 July 2016 and to a 17 year old child on 10 occasions between 3 July and 10 July 2016. In the process of imposing an aggregate sentence of 4 years and 6 months imprisonment after discount for that and other less serious offending, the sentencing judge stated that she would have sentenced the offenders to an aggregate term of 5 years imprisonment for that offending had the offenders not pleaded guilty.

---

21 (Unreported, Supreme Court of the Northern Territory, Kelly J, 7 February 2014)

22 (Unreported, Supreme Court of the Northern Territory, Riley CJ, 17 March 2016)

23 (Unreported, Supreme Court of the Northern Territory, Kelly J, 15 September 2017)

(g) In the matter of *R v Thompson*[24] the offender was sentenced to an aggregate sentence of 14 months imprisonment after a discount of 6 months for two offences committed between July and November 2017, one of which was supplying his 17 year old brother with a total quantity of 24 grams of cannabis during that period.

[26] Although the tainted money charges the subject of counts 3 and 5 bring into play the matters recently considered by this Court in *Clarke v The Queen*[25] ("*Clarke*") and *Horder v The Queen*[26] ("*Horder*") there was no cross-appeal or other suggestion on behalf of the respondent to the effect that those charges constituted an abuse of process and or attracted a plea in bar.[27] However, we acknowledge that the sentences imposed in relation to those counts should not exceed and should be made concurrent with those imposed in relation to the corresponding supply charges. In relation to those charges we have had regard to the summaries of comparative sentences in this jurisdiction for offences involving tainted monies derived from the supply of cannabis in *Horder* at [19] and *Clarke* at [92], and from the supply of methamphetamine in *Clarke* at [93].

[27] We resentence the respondent as follows.

---

24 (Unreported, Supreme Court of the Northern Territory, Grant CJ, 14 November 2018)

25 [2019] NTCCA 2

26 [2019] NTCCA 3

27 Cf *Clarke* [2019] NTCCA 2 [79]

(a) Count 1 – 1 year and 10 months imprisonment, reduced from 2 years and 6 months on account of his plea of guilty and remorse;

(b) Count 2 – 6 years imprisonment, reduced from 8 years;

(c) Count 3 – 4 years imprisonment, after discount, fully concurrent with the sentence on count 2;

(d) Count 4 – 6 years and 9 months imprisonment, reduced from 9 years;

(e) Count 5 – 4 years imprisonment, after discount, fully concurrent with the sentence on count 4;

(f) Count 6 – 18 months imprisonment, reduced from 2 years.

[28] Taking into account the principle of totality we consider that a total sentence of 8 years imprisonment is appropriate. We take as the starting point the sentence of 6 years and 9 months imposed for count 4. We direct that 12 months of the sentence for count 2 be served cumulatively with the sentence for count 4 and 3 months of the sentence for count 1 be served cumulatively with the sentence for count 2. The remainder of the respective sentences are to be served concurrently. The sentence will be backdated to commence on 27 June 2017.

[29] Two issues concerning the application of the 70% minimum non-parole period in s 55 of the *Sentencing Act* were referred for determination by the Full Court consisting of five judges.

(a) The offending in count 1 occurred before the amendments to s 55 of the *Sentencing Act* applied the 70% minimum non-parole period to specified drug offences.[28] The first question to be determined was whether the 70% minimum non-parole period in the amended s 55 applies when a court is sentencing the respondent for that particular offence that had been committed before the amendment came into effect.

(b) The second question was whether, when a court is sentencing an offender for more than one offence, some of which are specified in s 55 as those to which a minimum 70% non-parole period applies and some of which are not, the 70% minimum non-parole period applies only to the sentences for those offences specified in s 55, or whether it applies to the total effective sentence imposed across all counts.

[30] The Full Court has now answered the first question: "No". That is because the particular offence the subject of count 1 was an offence under ss 5(1) and (2)(a)(iii) of the *Misuse of Drugs Act*, which was repealed on 18 July 2016, and which was not a "specified offence" in s 55 when it was amended the same day.[29]

[31] The Full Court has answered the second question by ruling that the 70% minimum non-parole period applies only to that part of the sentence which

---

28 These amendments were introduced by the *Justice Legislation Amendment (Drug Offences) Act* which also made substantial amendments to the *Misuse of Drugs Act* and came into effect on 18 July 2016.

29 *The Queen v Cumberland* [2019] NTCCA 13

relates to a "specified offence" as defined in s 55 of the *Sentencing Act*.[30] The offences the subject of the sentences which we have imposed for counts 2 and 4 are specified offences so defined.

[32] Accordingly, pursuant to s 55 of the *Sentencing Act*, we must fix a non-parole period of not less than 70% of the 7 years and 9 months imprisonment that we have imposed for counts 2 and 4 (ie 65.1 months); and pursuant to s 54 the non-parole period must be not less than 50% of the total sentence of 8 years (ie 48 months). We fix a non-parole period of 65 months and 1 week. The overall sentence will therefore be 8 years imprisonment with a non-parole period of 65 months and 1 week, both backdated to 27 June 2017.

---

30 *The Queen v Cumberland* [2019] NTCCA 13