CITATION:	*Dalrymple v The Queen* [2019] NTCCA 17
PARTIES:	DALRYMPLE, Scott v THE QUEEN
TITLE OF COURT:	COURT OF CRIMINAL APPEAL OF THE NORTHERN TERRITORY
JURISDICTION:	CRIMINAL APPEAL from the SUPREME COURT exercising Territory jurisdiction
FILE NO:	CA 7 of 2019 (21757812)
DELIVERED:	12 July 2019
HEARING DATE:	12 July 2019
JUDGMENT OF:	Grant CJ, Blokland & Barr JJ

REPRESENTATION:

Counsel:

Appellant:	J Ker
Respondent:	D Dalrymple

Solicitors:

Appellant:	Northern Territory Legal Aid Commission
Respondent:	Office of the Director of Public Prosecutions

Judgment category classification:	B
Number of pages:	5

IN THE COURT OF CRIMINAL APPEAL
OF THE NORTHERN TERRITORY
OF AUSTRALIA
AT DARWIN

Dalrymple v The Queen [2019] NTCCA 17
No. CA 7 of 2019 (21757812)

BETWEEN:

SCOTT DALRYMPLE
Appellant

AND:

THE QUEEN
Respondent

CORAM: GRANT CJ, BLOKLAND AND BARR JJ

REASONS FOR JUDGMENT

(Delivered *ex tempore* on 12 July 2019)

THE COURT:

[1] In this matter the appellant pleaded guilty to and was convicted of supplying a commercial quantity of methamphetamine contrary to s 5(1) of the *Misuse of Drugs Act 1990* (NT).

[2] For that offence, the sentencing judge adopted a starting point of 12 years' imprisonment which was then reduced to nine years and seven months to take into account the appellant's plea of guilty. A non-parole period of six years and nine months was fixed, which reflected the 70 per cent minimum non-parole period which had application to this offending.

[3] The grounds of appeal are that the sentencing judge erred in assessing the objective seriousness of the appellant's offending and that the sentence was manifestly excessive in all the circumstances.

[4] We do not consider that the sentencing judge made any of the particular errors of law or principle suggested by the appellant in the context of the first ground of appeal. That being so, the contention that the sentencing judge erred in assessing the objective seriousness of the appellant's offending is best considered as a particular of the ground asserting manifest excess.

[5] The relevant parts of the agreed facts can be summarised as follows:

(a) The appellant sourced commercial quantities of methamphetamine from unknown sources in Queensland and arranged for the transportation of the drug to Darwin, where he both intended to supply and did supply the drug to others in a criminal network.

(b) In June 2017, the appellant arranged for a courier to carry 105.97 grams of methamphetamine to Darwin. The appellant was the principal in coordinating that supply of methamphetamine by the courier into the Northern Territory.

(c) In August 2017, the appellant arranged for a second courier to transport methamphetamine to Darwin. Over the following months, she transported methamphetamine to the Northern Territory on at least three occasions and in an amount of at least 278 grams. The appellant was the principal in coordinating that supply.

(d) In the months prior to October 2017, the appellant recruited his father-in-law to arrange flights for couriers who were bringing methamphetamine into the Northern Territory at the appellant's direction.

(e) In November 2017, the appellant recruited his father-in-law to transport 220.16 grams of methamphetamine into the Northern Territory. The appellant was the principal in coordinating that supply.

(f) In December 2017, the appellant recruited an associate to transport both him and 73 grams of methamphetamine into the Northern Territory. The appellant was the principal in coordinating that supply.

(g) The total amount of methamphetamine seized by police was 565.92 grams.

(h) The appellant's purpose in coordinating the supplies was commercial gain.

[6] The assessment of moral culpability and objective seriousness in cases such as this requires a consideration of factors such as the social consequences which follow from the commission of the offence; the nature of the 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 the drugs involved, subject to the qualification that the quantity will not be the principle determinant in sentencing.

[7] In the present case, there is no doubt that the appellant was the principal in a criminal syndicate or network, however described, which transported relatively large quantities of methamphetamine from Queensland into the Northern Territory for the purpose of

supplying it into the Northern Territory community. The damaging social consequences of that type of conduct have been addressed by this court in a number of decisions. It is an agreed fact that the appellant's purpose was commercial gain, notwithstanding that he also had a dependency on the drug.

[8] Even allowing for those objective features, the appellant's offending does not fall into the worst categories of cases which have been dealt with by this court and the Supreme Court. It is not possible to say what commercial reward the appellant made from his activity or stood to gain from the methamphetamine which had been seized by police. The most that can be said is that the methamphetamine seized had an estimated street value of between $280,000 and $840,000 depending upon the amounts in which it was sold. While it can be accepted that the appellant's return would have been significant, it could not be concluded that he would have personally profited in that whole degree. There is also no suggestion of the scale or regularity of activity which characterise the worst categories of offending of this type, or that the appellant's operation was one which deployed threats and violence.

[9] For these reasons, we consider that the starting point adopted by the sentencing judge was manifestly excessive and that a starting point of 10 years' imprisonment should be adopted. We would reduce that by 25 per cent to take into account the appellant's guilty plea and fix the minimum non-parole period. Accordingly, we make the following orders:

1. The appeal is allowed and the sentence imposed on 22 November 2018 is set aside.

2. The appellant is sentenced to imprisonment for 7 years and 6 months.

3. A non-parole period of 5 years and 3 months is fixed.
