

N.B. Copyright in this transcript is the property of the Crown. If this transcript is copied without the authority of the Attorney-General of the Northern Territory, proceedings for infringement will be taken.

---

THE SUPREME COURT OF  
THE NORTHERN TERRITORY

SC 20903287

THE QUEEN

and

JORDY BRENTON POWELL

(Sentence)

MARTIN,CJ

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON THURSDAY 15 OCTOBER 2009

Certified a true transcript of a record.

Transcribed by:  
Merrill Legal Solutions

HIS HONOUR: Mr Powell, you have pleaded guilty to two drug offences. You can sit down.

First, that on 23 January 2009 you were in possession of cannabis in the circumstance of aggravation that the amount of cannabis was a commercial quantity, namely 1498 grams.

Secondly, that on the same day you were in possession of amphetamine in the circumstance of aggravation that the quantity was a traffickable quantity, namely 12 grams.

Your possession of these drugs comes against a long history of drug addiction.

You are now 31 years of age. You grew up in Port Lincoln and moved to Alice Springs when you were about 14. Your parents separated when you were about two and later, as a young teenager, unfortunately you experienced a violent home in which your mother's new partner was violent toward her and to you.

You completed year 6 at primary school and it is to your credit that subsequently you taught yourself to read and write properly. During school you felt like an outcast because of your Aboriginality and that feeling continues to the present time where you have no friends and you tend to isolate yourself.

By reason of the dysfunctional home in which you were living, by about the age of 14 to 15 your life started to focus on alcohol and cannabis. At the age of 15 you started using heroin and by 19 you were using methamphetamine. At the time with which I am concerned you had been heavily addicted to amphetamine or particularly methamphetamine for a long time and you were using cannabis to ease the consequences of your use of amphetamine. You have also been a heavy user of alcohol.

No doubt your lifestyle explains your long record of prior offending going back to 1993. Your prior offending includes offences of dishonesty and offences of violence. You admit to having an anger management problem when you are confronted with others who are aggressive. You have convictions for assault; in 1994 and 1996 – I should have said on two occasions in 1996; and again in 2007. In 9 September 2006, you committed the offence of possessing cannabis for which you were dealt with in January 2007 by way of a \$450 fine. On that occasion you were found in possession of 24.9 grams of cannabis, spread across 16 small clipseal bags, sorry 21 small clipseal bags and a container of loose material.

You are the father of a young boy who you have raised from a very early age without input from your former wife. Your mother has assisted you, and still does today, with the raising of the child. Your responsibilities to the child have not prevented you from becoming a heavy drug user and maintaining that habit for a long time.

At the time of this particular offending I am told that you were basically drug addled and you had incurred a large number of drug debts. It was against this background

that you obtained a commercial quantity of cannabis which you then divided into 327 small cipseal bags, another bag and three buckets. You were intending to sell the cannabis in order to pay off your debts and to enable you to continue buying methamphetamine.

This is not an uncommon story for Courts to hear. In fact, almost invariably, those who are heavily addicted to drugs have to sell some of the drugs in order to feed their habit. Your Counsel has told me that this is the first time you have ever undertaken this exercise, but I do not accept that assertion from the Bar table. No evidence has been forthcoming that this was the first time and I am not prepared to make a positive finding in your favour about that matter. On the other hand, I do not have any evidence that you have engaged in this practice in the past and I, therefore, cannot make a finding against you. I simply do not know whether this was the first occasion or not.

The cipseal bags were found in various places within the house together with 12.4 grams of methamphetamine. While you acknowledge that you were intending to sell the cannabis to make a profit and pay off your debts, as well as feed your amphetamine habit, you maintain that the methamphetamine was solely for your own use.

After taking instructions from members of the Drug Squad, the Crown accept that the methamphetamine was for your own use, and I am prepared to accept that fact as well. I will sentence you on that basis.

The cannabis found in your home was very valuable. It had the potential to realise anything between about \$15,000 and \$37,000, depending on how it was sold. I have not been given any explanation as to how you were able to purchase that quantity of cannabis, but your Counsel has told me that you were in debt for drugs.

So, Mr Powell, you have committed a very serious, one particularly serious offence, and another serious offence, of the type that are, unfortunately, far too common in our community and the Criminal Court has observed in the past that community attitudes are hardening to cannabis in particular and given a warning about increasing penalties. The Criminal Court has also spoken of the harm that cannabis and other drugs cause throughout our community, particularly within Aboriginal communities where there appears to be a ready market. Those who attempt to trade in drugs, for whatever reason, must understand that the Courts will impose penalties in the hope that the penalties will deter others who are minded to engage in this type of drug trade. The community is now very well aware of the particular damage that cannabis does within Aboriginal communities and the Court must do what it can to suppress this insidious trade.

Personal deterrence is also important because you need to be deterred from committing this type of offending again. But it is very much to your credit that following your arrest in this matter you decided to do something about your own rehabilitation. You took on what is called the CREDIT program because you

decided, no doubt prompted by what had happened, that you wanted to get off the drugs and improve not only your lot in life, but that of your child.

I have reports from the CREDIT program, which you have successfully completed, and these indicate that you have made a strong effort and a number of positive changes. You have managed to stay off the drugs, both cannabis and amphetamine, for a significant period and you are determined to continue with this rehabilitation. However, it must be said and recognised that there is still a long way to go. It is one thing to stay off the drugs when you know that the sentencing Court is going to be receiving reports, it is another that once you have been sentenced and you know what the result is, that you are able to continue. It is well recognised that overcoming the type of addictions that you possess is a very difficult task.

Having said that, I accept that there are good prospects for full rehabilitation and that you are well motivated to overcome your addictions. You also hope to obtain employment, but again, that will not be an easy task.

You are convicted of both offences. Had it not been for your plea of guilty I would have imposed a sentence of four years and three months imprisonment. After allowing for your plea I impose a sentence of three years and three months imprisonment. That is on count 1. That is for the cannabis.

On count 2, in relation to the amphetamine for your own use, had it not been for your plea of guilty I would have imposed a sentence of two years imprisonment. After making allowance for your plea, I impose a sentence of 18 months imprisonment. Of that sentence of 18 months, three months is to be served cumulatively upon the sentence imposed with respect to count 1, making a total sentence of three years and six months imprisonment.

Then comes the difficult question, Mr Powell, as to how long I should require you to serve in prison. The Act requires that I arrange the sentence so that you serve at least 28 days, unless there are particular circumstances why I should not require you to serve 28 days. Your Counsel has accepted, as have you apparently, that there are no particular circumstances and that you must serve at least that period. However, in my view a period of 28 days would be too short. I am going to require you to serve a longer period, but not a very much longer period in the whole scheme of things, and I indicate to you now, that if you had not made the efforts that you have made, you would have been serving a significantly longer period. It is important that Courts recognise the efforts of rehabilitation and recognise it in a practical way. In particular that the Courts recognise efforts made through the CREDIT program.

In your case, however, in my view 28 days would not be sufficient. I suspend the sentence after you have served six months from today. But I repeat, if you had not done the CREDIT program and made the efforts, you would have been serving a lot longer than six months.

The operational period of the suspension is three years from the date of release.

The conditions of the suspension are as follows: You are to be under the supervision of the Director of Correctional Services and you are to obey the reasonable directions of the Director or a probation officer as to your residence, employment, associates, counselling and treatment, including counselling and treatment for issues associated with drug use and anger management and obeying instructions includes instructions concerning participation in rehabilitation programs and services. Further, during the period of the bond of the suspension, you are not purchase or consume any form of amphetamine, cannabis or any other illicit drug. Further, you are, during that period, to provide a urine sample forthwith upon request by a probation officer or a police officer for the purposes of urinalysis for the testing of the presence of any illicit drug.

Mr Powell, what this means is that your total sentence is three years and six months, but you will be released in six months time on probation. For the next three years after that you will have the balance of the sentence, that is you will have three years imprisonment hanging over your head. If you stay out of trouble and obey the probation people, then you will never have to serve that three years. And if you get into trouble, use drugs, or if you do not do as you are told by the probation people, you will be brought back here and you will be liable to be sentenced to that balance of three years. So it is six months and then you will be released on probation.

Is there anything further?

MR ROBERTS: Your Honour, I believe you made a forfeiture order during the - - -

HIS HONOUR: I did, indeed.

MR ROBERTS: And I have to apologise, your Honour, when listening to your remarks, there seems to be a error in the particulars on the face of the indictment, which probably caused your Honour to refer to amphetamine from time to time. It should have read methyl - - -

HIS HONOUR: It should have meant methamphetamine.

MR ROBERTS: Yes, your Honour.

HIS HONOUR: Yes, that is why I did refer to amphetamine, but in fact it was methamphetamine.

MR ROBERTS: Methyl.

HIS HONOUR: Well I don't think – that doesn't – methyl or meth?

MR ROBERTS: Methyl. M-E-T-H-Y-L.

HIS HONOUR: All right. Doesn't make any difference to the sentence itself. There's no difference for this purpose between methylamphetamine or amphetamine or methamphetamine.

MR ROBERTS: No, your Honour.

HIS HONOUR: They're all amphetamine based.

All right. Thank you.

Mr Powell could be taken into custody now.

---