

IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

CA728/2024
[2025] NZCA 379

BETWEEN	ANTHONY MARTIN DUDLEY Appellant
AND	THE KING Respondent

Hearing:	23 July 2025
Court:	Collins, Jagose and Gault JJ
Counsel:	S Tait, D A Bousfield and L J Murch for Appellant B So for Respondent
Judgment:	31 July 2025 at 12 pm

JUDGMENT OF THE COURT

The appeal is dismissed.

REASONS OF THE COURT

(Given by Collins J)

Introduction

[1] On 8 October 2024, Mr Dudley was sentenced to 14 years' imprisonment following his guilty pleas in relation to methamphetamine offending.¹ Mr Dudley appeals his sentence on the narrow contention that the sentencing Judge erred by not giving him more than a 10 per cent discount to reflect his personal circumstances.

¹ *R v Dudley* [2024] NZDC 24789 [sentencing notes] at [77]. The Judge also imposed a 50 per cent minimum period of imprisonment (MPI).

Background

[2] The relevant background to Mr Dudley's offending was summarised in the following way in the summary of facts and by Judge Northwood:

- (a) Mr Dudley was the head of a significant methamphetamine enterprise in the Manawatū region which involved a number of associates whom Mr Dudley communicated with using encrypted communication systems.²
- (b) Between 23 May 2022 and 8 November 2022, Mr Dudley conspired with others to supply 24 kgs of methamphetamine.³
- (c) Initially the group controlled by Mr Dudley obtained significant quantities of methamphetamine from a source in Auckland. The methamphetamine was stored at a Palmerston North property. Mr Dudley then arranged for it to be distributed throughout the lower North Island.⁴ Mr Dudley and his partner, Ms Robertson, kept records of the methamphetamine that was distributed and a checklist of money that was to be paid.⁵
- (d) When issues arose with the Auckland source of methamphetamine Mr Dudley and others began to manufacture the drug. Approximately 10 kgs of methamphetamine was manufactured.⁶ Mr Dudley directed the manufacturing process.⁷
- (e) On 8 November 2022, police executed a number of search warrants in Auckland and the Manawatū area. This resulted in over 10 kgs of methamphetamine being found and over \$560,000 in cash being seized, across several properties.⁸ In one Palmerston North property, police

² At [5] and [21].

³ At [3] and [9].

⁴ At [7] and [10]–[13].

⁵ At [13].

⁶ At [10].

⁷ At [21].

⁸ At [8].

found Mr Dudley and an associate with just over 10 kgs of methamphetamine and around \$349,000 in cash. Police also found chemicals used in the manufacturing of methamphetamine throughout the property.⁹

[3] Mr Dudley pleaded guilty to six charges:

- (a) one charge of conspiring to supply methamphetamine;
- (b) one charge of manufacturing methamphetamine;
- (c) one charge of supplying methamphetamine;
- (d) two charges of possession of methamphetamine for supply; and
- (e) one charge of breaching parole conditions.

Mr Dudley's previous offending

[4] Mr Dudley, who is now 48 years old, has a long list of criminal convictions dating back to 1994. Most relevantly, he was sentenced to:

- (a) six years' imprisonment for possessing methamphetamine for the purposes of supply in 2005; and
- (b) nine years and three months' imprisonment for the same offence in 2016.

[5] The offending in 2022 occurred while Mr Dudley was on parole in relation to the sentence imposed in 2016. In December 2022, he was recalled by the Parole Board to continue to serve his 2016 sentence.

⁹ At [8] and [16]–[19].

Personal circumstances

[6] When sentencing Mr Dudley, the Judge had before him an Alcohol and Other Drug (AOD) report, as well as a Provision of Advice to Courts (PAC) report prepared by Ara Poutama Aotearoa | Department of Corrections.

[7] The AOD report is comprehensive and records in considerable detail information about Mr Dudley provided by both Mr Dudley and his sister. Mr Dudley's traumatic background was summarised in the AOD report in the following way:

Mr Dudley was raised in a whānau rife with dysfunction where he was physically, emotionally and sexually abused. Both of his parents were heavy drug addicts and alcoholics. His father, who never had any gainful employment, was a Black Power member and prolifically sold drugs as his main source of income. Amidst this chaos, Mr Dudley as a child and youth had dreams of becoming a lawyer and had the academic capabilities to do so. The death of his brother and best friend within a short space of time, however, soon had Mr Dudley ameliorating his grief through alcohol and cannabis use. His parents had him leave school before he could finish his final year, and his aspirations for university were stymied. He ended up on the streets at the age of 17 where his offending began. The selling of drugs began with the encouragement of his father, and whilst Mr Dudley has had lengthy periods of time when he has lived prosocial, he has often reverted back to behaviour of old and ended back in the criminal justice system. He believes this may well be a self-sabotaging manoeuvre due to the trauma of his childhood and his sense of self-worth.

[8] In the same report however, it is noted:

- (a) “Mr Dudley had no addictions to speak of at the time of his offending”;
- (b) Mr Dudley had a “severe methamphetamine use disorder”, but that was currently in “sustained remission”;
- (c) while Mr Dudley could not understand why he had reoffended, he acknowledged he got a “buzz” from learning how to manufacture methamphetamine; and
- (d) he wondered whether “his criminal patterns have to do with ‘impressing’ his father and wider gang-related whānau”.

[9] The PAC report notes that Mr Dudley engaged in a drug treatment programme while in custody between 2016 and 2021. Since returning to prison in 2022, he has resumed his engagement with Christianity and is receiving counselling to deal with his past trauma.

Sentencing decision

[10] Judge Northwood's decision can be summarised in the following way:

- (a) the Judge adopted a starting point of 20 years' imprisonment to reflect Mr Dudley's leading role in the methamphetamine enterprise and the large quantity of methamphetamine involved in his drug dealing;¹⁰
- (b) from the starting point of 20 years' imprisonment the Judge deducted 20 per cent (four years) for Mr Dudley's guilty plea;¹¹ and
- (c) deducted a further 10 per cent (two years) in recognition of Mr Dudley's personal circumstances.¹²

[11] This produced an end sentence of 14 years' imprisonment.¹³ The Judge declined to provide any discounts for Mr Dudley's professed remorse and commitment to rehabilitation.¹⁴

[12] The Judge also imposed a minimum period of imprisonment (MPI) of 50 per cent (seven years) which Mr Dudley must serve before he can be considered for parole.¹⁵

Grounds of appeal

[13] In the commendably focussed grounds of appeal, Mr Tait for Mr Dudley submitted that Judge Northwood should have allowed a greater discount to reflect

¹⁰ At [49]–[50].

¹¹ At [52].

¹² At [53]–[58].

¹³ At [73].

¹⁴ At [61]–[66].

¹⁵ At [77].

Mr Dudley’s personal circumstances. It was contended that a discount of 20 per cent would have been a more appropriate recognition of Mr Dudley’s background.

[14] No issue was taken with the 20 year starting point adopted by the Judge. That was the starting point recommended by both the Crown and Mr Tait in the District Court. Nor is any issue taken with the 20 per cent discount for Mr Dudley’s guilty plea, the Judge’s decision not to give further discounts to reflect Mr Dudley’s claim of remorse and commitment to rehabilitation, or the imposition of a 50 per cent MPI.

Crown’s position

[15] Ms So for the Crown submitted Mr Dudley “is a repeated and determined methamphetamine supplier” who, despite his previous long sentences of imprisonment for methamphetamine offending, elected to become the “kingpin” of the major methamphetamine operation we have summarised earlier in this judgment.

[16] In Ms So’s submission, the 10 per cent discount afforded to Mr Dudley was generous. She submits the sentence imposed was well within the range that was reasonably available and was not manifestly excessive.

Analysis

[17] In *Berkland v R*, the Supreme Court allowed a 10 per cent discount for an appellant with a similar background to Mr Dudley.¹⁶ In particular, both men came from impoverished backgrounds and chaotic family circumstances. Both were exposed to alcohol, drugs and violence at an early age and they both resorted to alcohol and drugs whilst they were children in order to cope with their disturbing home environments. Both men were exposed to sexual abuse and received limited education.¹⁷

¹⁶ *Berkland v R* [2022] NZSC 143, [2022] 1 NZLR 509 at [16(d)(i)] and [162(a)].

¹⁷ At [151]–[158].

[18] There are however two stark differences between Mr Dudley’s and Mr Berkland’s circumstances:

- (a) Unlike Mr Berkland, Mr Dudley was the head of the methamphetamine operation. Although Mr Berkland was the “right-hand man” to the principal offender, he was under the control of the head of the operation and had no executive control over the enterprise.¹⁸ The Supreme Court recognised that Mr Berkland’s more limited role allowed for greater latitude to be given to reflect his personal mitigating factors.¹⁹
- (b) Unlike Mr Dudley, Mr Berkland had a comparatively limited history of criminal offending comprising mainly traffic and cannabis offences. His only prison sentence was for two months for drink driving and his last conviction was more than 10 years before the index offending.²⁰

[19] In *Berkland*, the Supreme Court recognised that an offender’s background (such as addiction and social, economic and cultural deprivation) can mitigate a sentence where it made a causative contribution to the offending.²¹ The Court also recognised that where offending is particularly serious, other sentencing considerations such as deterrence, denunciation and the protection of the community are likely to be “more powerfully engaged” and that, particularly in the case of repeat offenders “there will come a point where background, even if it has contributed to the offending, can have no impact”.²²

[20] We accept that Mr Dudley’s disturbing history of deprivation and trauma goes some way towards explaining why he was originally drawn into methamphetamine use and dealing.

[21] However, we agree with the Crown’s submission that the “scale and sophistication of Mr Dudley’s offending suggests considerable agency”. Particularly,

¹⁸ At [76].

¹⁹ At [77]–[80] and [151].

²⁰ At [156], n 168.

²¹ At [108]–[112].

²² At [94].

he directed others involved in the offending on drug dealing activity and taught them how to “yield the best results during the manufacturing process”. He was the “mastermind” of a drug operation that dealt in drugs worth over \$3 million and involved a conspiracy to supply 24 kgs of methamphetamine.

[22] Regrettably, Mr Dudley has failed to respond appropriately to the two lengthy sentences of imprisonment previously imposed upon him for methamphetamine offending. On the contrary, whilst on parole in relation to the sentence imposed in 2016, he engaged in extensive methamphetamine offending over a period of approximately five months.

[23] The point has now been reached where society’s interest in deterring Mr Dudley, denouncing his offending, and protecting the community has to prevail over the allowances that the Court might otherwise have made to reflect Mr Dudley’s personal circumstances.

[24] The sentence imposed was not manifestly excessive. On the contrary, it was well within the range that was reasonably available. Most importantly, the 10 per cent discount afforded to Mr Dudley to reflect his personal circumstances was in range given the seriousness of his offending and his failure to respond in a pro-social way to the sentences previously imposed for similar offending.

Result

[25] The appeal is dismissed.