IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

CA543/2024
[2026] NZCA 139

BETWEEN	AISAKE FELETI Appellant
AND	THE KING Respondent

Hearing: 19 March 2026

Court: Katz, Grice and Walker JJ

Counsel: J N Olsen for Appellant
J G Fenton for Respondent

Judgment: 21 April 2026 at 3.00 pm

JUDGMENT OF THE COURT

A The application for an extension of time to appeal is granted.

B The appeal against sentence is allowed in part.

C The minimum period of imprisonment is set aside. The appeal against sentence is otherwise dismissed.

REASONS OF THE COURT

(Given by Walker J)

[1] Mr Feleti pleaded guilty to three charges of importing methamphetamine,[1] two charges of supplying methamphetamine,[2] one charge of possession of

[1] Misuse of Drugs Act 1975, ss 6(1)(a). Maximum penalty: life imprisonment.
[2] Section 6(1)(c). Maximum penalty: life imprisonment.

methamphetamine for supply,[3] two charges of conspiracy to supply methamphetamine,[4] and two charges of money laundering.[5] He was sentenced in the District Court at Auckland by Judge Glubb to 14 years and nine months' imprisonment, with a minimum period of imprisonment (MPI) of 40 per cent.[6]

[2] Mr Feleti appeals his sentence. He argues that it was manifestly excessive because the Judge adopted an excessive starting point and the uplift for the money laundering offending was too high. In addition he argues that the imposition of an MPI was not warranted.

Application for an extension of time

[3] Mr Feleti's appeal is filed out of time. As the delay has been explained and no prejudice to the Crown is identified, we grant an extension of time.[7]

The offending

[4] Three separate Police operations uncovered Mr Feleti's offending: Operation Schrute, Operation Selena and Operation Worthington. The investigations identified syndicates involved in the importation of controlled drugs including utilising an existing baggage handling syndicate at Auckland International Airport.

Operation Selena

[5] This investigation identified importations of methamphetamine into New Zealand processed by baggage handlers at Auckland International Airport in the pay of the methamphetamine syndicates. Mr Feleti and an associate, Mr Vimahi, were identified as facilitating importations from the United States.

[6] The established modus operandi was as follows. Mr Vimahi organised and directed the importations using two separate syndicates while he worked for an airline

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3 Section 6 (1)(f). Maximum penalty: life imprisonment.
4 Section 6(2A). Maximum penalty: 14 years' imprisonment.
5 Crimes Act 1961, s 243(2). Maximum penalty: 7 years' imprisonment.
6 *R v Feleti* [2024] NZDC 16087 [judgment under appeal].
7 Criminal Procedure Act 2011, s 248(4).

as Service Delivery Leader. Materially, and as recorded in the sentencing notes of the Judge, Mr Feleti directly communicated with suppliers of methamphetamine in the United States. Once those in the United States were ready to export the methamphetamine to Auckland, Mr Feleti would contact Mr Vimahi to say that the importation was ready and Mr Vimahi would then direct one of the syndicates at the airport. Mr Vimahi would obtain their rosters, which would then be passed on to Mr Feleti and the supplier. The baggage handlers' role was to physically obtain the controlled drugs concealed in luggage from the bulk hold of the incoming aircraft and divert them from the normal screening processes. Mr Feleti and Mr Vimahi paid the handlers in cash or drugs for their role in the importation method. Once the methamphetamine was delivered to Mr Feleti, his associates would assist him in supplying the drugs within the Auckland area.

[7] In January 2021, Mr Feleti contacted Mr Vimahi about a pending arrival from Los Angeles. Mr Vimahi contacted the baggage handling crew. There were various communications in relation to the impending importation and the importation was confirmed. The flight arrived on 11 February 2021. The baggage handlers retrieved a bag containing 10 kilograms of methamphetamine and Mr Vimahi directed and arranged for the bag to be delivered to Mr Feleti.

[8] Intercepted communications show that a dispute arose about payment of the baggage handlers working airside. Through an encrypted messaging application, Mr Feleti told Mr Vimahi that he would provide the rest of the cash for the successful importation. Mr Feleti also communicated with the supplier to confirm that he would split the profits of the successful importation. Mr Feleti ending up with $300,000 in total.

[9] Mr Feleti facilitated a further importation of 10.229 kilograms from Los Angeles. The United States supplier "Wiseman" texted him on 16 February 2021 to say, "I got 9 in the bag for next one, toko". On 18 February, he sent pictures of three vacuum packed packages of methamphetamine placed inside a grey backpack. There were some delays and further discussions regarding the impending importation. On 3 March Mr Feleti advised "Wiseman" that Mr Vimahi had confirmed the baggage handlers' readiness. "Wiseman" advised the package would be in the same bag that

was supposed to come earlier. The flight with the package arrived on 4 March 2021, was extracted and delivered to Mr Feleti.

[10] Mr Feleti advised the supplier that he had the "untouched" package. There were ongoing discussions with the supplier about distribution. For example, on 9 March 2021, Mr Feleti messaged that he was still working on supplying the remaining methamphetamine in order to make the agreed $1.035 million. Mr Feleti visited an associate's address used to store cash from the proceeds of the methamphetamine supply. On 13 March 2021, he said that he had just over $1 million, was waiting on $35,000 and then will be done.

[11] There were discussions from between 19 March 2021 and May 2021 about a further import. Ultimately, that importation was cancelled.

[12] Later, in May 2021, Mr Feleti and Mr Vimahi were using the encrypted application to plan an importation of a further two kilograms through mail parcels. One kilogram was to be sent to test the route.

[13] Between 1 January and 8 December 2021, Mr Feleti supplied methamphetamine via associates. On 8 December 2021, 500 grams of methamphetamine was found in a car at Mr Feleti's address.

Operation Schrute

[14] This operation identified a syndicate importing shipping containers containing methamphetamine from Tonga via the Ports of Auckland. Mr Feleti communicated with the director of an importation company, Mr K, to arrange for the importation of seven kilograms of methamphetamine from Tonga. The drugs were concealed in frozen produce in a shipping container by a staff member on Mr K's instructions. The container was delivered to a freight forwarding company. Once the container arrived, Mr Feleti was told that an associate of Mr K was on his way to drop off the methamphetamine. Mr Feleti was to bring one kilogram bags. Following inspection by the Ministry of Primary Industries, the container was transported to Mr K's home address.

[15] Mr Feleti and Mr K arranged for the distribution of the methamphetamine to third parties in kilogram and ounce lots.

Operation Worthington

[16] This was an investigation into money laundering of cash obtained from the importation and supply of drugs. The investigation centred on "money drops" involving the use of a token system to arrange meetings to exchange cash. Mr Feleti arranged to meet one of the syndicate members utilising the token system.

[17] They arranged to meet in the Onehunga Countdown car park. On 20 March 2021 Mr Feleti handed over a bag containing over $1.1 million of cash to an associate of the syndicate. A few days later, he handed over a further bag of $50,000 cash in the carpark of the Māngere Library. The cash was the proceeds of Mr Feleti's drug dealing activity.

[18] Police executed a search warrant at a series of addresses on 23 June 2021, including Mr Feleti's home address. A roll of cash totalling $5,850 was found along with a handwritten note with the token code, consistent with that used in the past.

Decision under appeal

[19] The Judge interrupted the sentencing exercise on discovery that there was no Provision of Advice to Courts Report. He adjourned the sentencing pending preparation of a stand down report. This was provided the next day and sentencing resumed.

[20] It was common ground that the drug offending fell within band 5 of the guideline case, *Zhang v R*, given the quantities of methamphetamine involved.[8]

[21] It was also common ground that Mr Feleti's role fell into a leading role, in accordance with the roles identified in *Zhang* and refined in *Berkland v R*.[9] The real

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[8] *Zhang v R* [2019] NZCA 507, [2019] 3 NZLR 648.
[9] *Berkland v R* [2022] NZSC 143, [2022] 1 NZLR 509.

contest was whether Mr Feleti's role fell at the low end or mid-band of the leading role category.

[22] The Judge accepted Mr Feleti's role was leading because he was in direct communication with the suppliers and organised those on the ground.[10] He observed that there was already an existing group of baggage handlers operating at the airport but that there was nobody above Mr Feleti in terms of the operation. Mr Feleti was clearly expecting substantial financial returns based on the intercepted communications.[11] There was also direct delivery to Mr Feleti while he organised others to arrange distribution.

[23] The Judge noted the estimated value in respect of Operation Selena was about $20 million and the estimated value for Operation Schrute would have been about $7 million.[12]

[24] In assessing the seriousness of the offending, the Judge considered the aggravating circumstances as Mr Feleti's previous conviction history and the fact that he was on bail in respect of the Operation Worthington related offending when the Operation Selena and Operation Schrute offending arose.[13] He considered the Supreme Court's articulation of indicia of roles in *Berkland* and concluded that Mr Feleti's offending placed him in the mid-band of the leading role category.[14] Relevant to that conclusion was that Mr Feleti was effectively at the top of the operation for the importations and on supply. He then considered comparative case law, including *Zhang*, *Kulu v R*,[15] and *Fangupo v R*.[16]

[25] As Mr Feleti placed significant reliance on *Fangupo*, the Judge remarked on this Court's observation in *Kulu* that *Fangupo* was not decided with the benefit of

10 At [26] and [49].
11 At [50].
12 At [27].
13 At [29]–[30].
14 At [51].
15 *Kulu v R* [2022] NZCA 284.
16 *Fangupo v R* [2020] NZCA 484.

authorities encompassing leading roles, only significant roles.[17] The Judge considered that this Court's reservations about *Fangupo* meant that he should put it to one side.[18]

[26] After considering the sentencing of other defendants involved in Operations Selena and Schrute, he concluded that the appropriate starting point for the Operation Selena offending was 20 years.[19]

[27] Turning to the second import uncovered in Operation Schrute, he noted that an 11 to 12 year starting point on a standalone basis would have been available.[20] Having regard to totality, he uplifted the starting point by four years which was a slightly lesser uplift than Mr Vuletic, another offender involved in Operation Selena. There is no challenge to this uplift.

[28] On the money laundering charge, the Judge was satisfied that offending on the standalone basis would have attracted a 40 month starting point but uplifted the nominal starting point by 12 months.[21]

[29] That resulted in an adjusted starting point of 25 years.

[30] The Judge allowed a 15 per cent credit for Mr Feleti's guilty plea.[22] He accepted that Mr Feleti had addiction issues (although much of it was self-reported). He allowed 15 per cent for combined cultural factors and addiction issues.[23] He then addressed Mr Feleti's rehabilitative efforts, recognising and encouraging these by a further 10 per cent allowance.[24] The combined mitigating factors totalled 40 per cent. Needless to say, the adequacy of these allowances is not appealed.

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17 Judgment under appeal, above n 6, at [56].
18 At [63].
19 At [63], referring to *R v Vuletic* [2024] NZHC 562 and *R v Rairi* [2023] NZDC 23202.
20 At [64].
21 At [65].
22 At [66].
23 At [67].
24 At [68].

[31] Additionally, Mr Feleti was given a 12-month credit for time spent on electronically monitored (EM) bail.[25] A five per cent uplift for the fact of offending on bail was also applied.[26]

[32] We pause to note that this uplift was applied to the sentence after personal mitigating factors had been deducted from the starting point. This is inconsistent with the two-step methodology established by this Court in *Moses v R*.[27] The consequence was that a lesser end sentence was imposed. When raised at the hearing, Crown counsel properly did not suggest this ought to be adjusted upwards. Given that it is the end sentence which matters, and that it benefitted Mr Feleti, we do not propose to correct this error before discussing the grounds of appeal.

Minimum period of imprisonment

[33] At the conclusion of his sentencing notes, the Judge considered the imposition of an MPI. He said:

> [78] …What I recognise is that the ordinary release after one-third would be four years and eight months, and I am not satisfied that that meets the need for deterrence, denunciation, holding you to account, but also protection of the community. I would have, ordinarily imposed a 50 per cent minimum period of imprisonment on you, but consistent with that imposed on both *Rairi* and *Vuletic* and in *Kulu*, I reduce that to 40 per cent. I am satisfied that is appropriate and so I impose a 40 per cent minimum period of imprisonment on the lead charges 1 and 2 which are the importation as part of Operation Selena 2.

Legal principles

[34] Appeals against sentence are under the Criminal Procedure Act 2011. Section 244 provides for the right of a person convicted of any offence to appeal to the first appeal court against the sentence imposed.

[35] This Court must allow the appeal only if it is satisfied that for any reason there is an error in the sentence imposed and that a different sentence should be imposed.[28]

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[25] At [69].
[26] At [70].
[27] *Moses v R* [2020] NZCA 296, [2020] 3 NZLR 583 at [46]–[47].
[28] Criminal Procedure Act, s 250.

On appeal the concern is with the outcome of the sentencing, not the approach taken to reach it.[29] The appellate court will only interfere with a sentence where it is manifestly excessive.[30] In deciding whether a sentence is manifestly excessive, the appellate court will not interfere with the legitimate exercise of the trial Judge's discretion or engage in "tinkering".[31]

The appeal

[36] We consider each of the grounds of appeal beginning with the starting point of 20 years (for the Operation Selena offending).

Was the starting point out of range?

[37] Mr Olsen, for Mr Feleti, characterised his role as at the low end of the leading category. He submitted that the Operation Selena charges should therefore have attracted a starting point of 15 years' imprisonment leading to an adjusted starting point of 19 years and six months once the additional offending is factored in. He challenged the Crown's interpretation of the summary of facts insofar as the communications between Mr Feleti and "Wiseman" (the United States based supplier) were concerned but does not dispute that Mr Feleti's role included communication with "Wiseman". Mr Olsen essentially invited us to draw an inference that Mr Feleti was a subordinate taking direction from "Wiseman" who was sitting above Mr Feleti in the operational chain and the ultimate leader. He submitted that if different inferences are open from the summary of facts, that most favourable to a defendant ought to be adopted.

[38] Mr Olsen challenged the Judge's perception that Mr Feleti's role was more serious "by some measure" than Mr Vuletic. Additionally, he submitted that the Judge did not sufficiently recognise that the baggage syndicate at Auckland International Airport pre-existed Mr Feleti's offending.

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29 *Tutakangahau v R* [2014] NZCA 279, [2014] 3 NZLR 482 at [36]; and *Kumar v R* [2015] NZCA 460 at [81].

30 *Tutakangahau v R*, above n 29, at [35].

31 At [36].

[39] Finally, Mr Olsen submitted that the Judge wrongly concluded that *Fangupo* has been discredited by this Court. Rather, this Court observed *Fangupo* was decided with reference to authorities that only exhibited a significant role but did not make any conclusion that it was decided on the wrong basis. Further, that *Fangupo* has been referenced by this Court on numerous occasions after *Kulu* was decided.[32] He noted that the quantity of drugs Mr Feleti imported and his role compares with Mr Fangupo's offending save that Mr Fangupo had greater influence over others than Mr Feleti, his offending spanned a longer period and involved more individual importations. Mr Olsen submitted that consequently Mr Feleti's culpability is relatively lower and certainly a step down from that of Mr Fangupo.

[40] Ms Fenton for the respondent submitted that the Judge was correct to find that Mr Feleti was "effectively at the top of this operation for these importations and on supply" having regard to his direction of commercial scale importations together with Mr Vimahi, his direction of others in the supply chain including those in the baggage handling syndicate (with items being delivered to him directly), and his close and direct links to the source.[33]

[41] Ms Fenton also contended that the Judge was right to find that Mr Feleti's role was more serious than Mr Vuletic's because while Mr Vuletic operated as "right-hand man", he was not a leader of the operation and crucially did not have direct contact with the product source. She acknowledged that *Fangupo* had comparable facts but emphasised that the offending in the later decision of this Court in *Kulu* was closer, if not identical. It therefore made sense for the Judge to have regard to the later of the two decisions in the setting of the starting point.

Discussion

[42] It is common ground that the Operation Selena offending involving 20.229 kilograms is the lead offending for sentencing purposes. It is also incontrovertible that these quantities place the offending squarely in the very highest

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32 Referring to *Fakaosilea v R* [2024] NZCA 218 at [192]–[193]; *Montoya-Ospina v R* [2025] NZCA 112 at [22]; *Kahlon v R* [2025] NZCA 572 at [25]; and *Cole v R* [2025] NZCA 355 at [18].

33 Judgment under appeal, above n 6, at [51].

range of the five bands set out in the guideline decision of this Court in *Zhang*, with starting points of a minimum of 10 years to life imprisonment.

[43] The nub of this appeal is whether the Judge erred in his assessment of where Mr Feleti's role sat within the leading category since that is an essential consideration in fixing culpability. We consider the Judge's assessment of starting point here was justified and no error in relation to starting point is identified. We set out our reasons.

[44] We agree with Ms Fenton that the starting point in *R v Vuletic* offers little assistance to Mr Feleti. Mr Vuletic fell into the middle category of a "significant role" or certainly not at the very top of significant.[34] As right-hand man of the leader of the syndicate he had some management functions and operational independence but acted under direction or at another's behest.[35] The starting point in respect of possession and supply of 29.7 kilograms of methamphetamine was around 15 years' imprisonment before uplifts for additional offending. Mr Feleti's role was materially different and warranted a significantly higher starting point.

[45] The case of *Fangupo* received much attention in argument.[36] In *Fangupo* a starting point of 19 years' imprisonment was quashed and replaced with a starting point of 17 years for eight charges of importing methamphetamine, totalling just over 20 kilograms. This Court determined that Mr Fangupo's circumstances warranted the lower starting point after reviewing several authorities though he played a leading role in the drug enterprises.[37] Mr Feleti argues that his case is the most applicable and relevant to his appeal and that the Judge ought to have adopted the same approach.

[46] Some months later, but before the Supreme Court decided *Berkland,* this Court determined the appeal of Mr Fangupo's co-offender, Mr Kulu.[38] The appeal was largely advanced on the basis that parity should mean his sentence should be reduced to be proportionate to that of Mr Fangupo. The sentencing Judge had adopted a starting point of 20 years' imprisonment for importation of 20 kilograms of

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34 *R v Vuletic*, above n 19, at [25].
35 At [25]–[26].
36 *Fangupo v R*, above n 16.
37 At [41].
38 *Kulu v R*, above n 15.

methamphetamine emphasising Mr Kulu's leading role, financial motivation and the large quantities involved.[39] He did not uplift that starting point for Mr Kulu's other drugs charges. After allowances for personal mitigating factors, the end sentence was 18 years' imprisonment with a MPI of 50 per cent.

[47] In *Kulu*, this Court referred to Mr Fangupo's successful reduction in sentence noting that the starting point had been held to be too high having regard to later authority considered comparable which, it noted, all involved defendants in the "significant" category as defined in *Zhang*.[40] The Crown accepted in the case of Mr Kulu that parity required a lower starting point.[41]

[48] For Mr Kulu, this Court focused on comparable appellate sentencing involving "leading" perpetrators and substantial band five quantities, and secondly, the question of parity.[42] After reviewing the appeals of Mr Yip and Mr Thompson in *Zhang* the Court said:[43]

> [22] We make the obvious point that, applying *Zhang*, the starting point for Mr Kulu would need to be below Mr Yip's 23 years (because of quantity, but noting Mr Kulu's role was at an appreciably higher level than Mr Yip's), above Mr Thompson's 18 years (because role was very similar, but the quantity here much higher) and well above Mr Zhang's 15 years (because of substantially greater quantity *and* role). All that suggests the Judge was within range, and quite right, in setting a starting point of 20 years for Mr Kulu.

[49] The Court then turned to four post *Zhang* cases noting that only one was referred to this Court in *Fangupo* and two of three others postdated it.[44] None of those comparative cases gave this Court any reason to doubt the sentencing Judge's

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39 *R v Fangupo* [2019] NZHC 2896 at [25].
40 *Kulu v R*, above n 15, at [11].
41 At [16].
42 At [18].
43 Emphasis in original.
44 At [23]–[24], referring to *Berkland v R* [2020] NZCA 150 in which Mr Berkland played a significant role and received a starting point of 16 years and six months' imprisonment. The starting point was reduced by the Supreme Court on appeal to 14 and a half years; *Harding v R* [2020] NZCA 217 in which Mr Harding was involved in the manufacture of methamphetamine and received a starting point of 25 years' imprisonment before an uplift of 5 years for supply. This was reduced on appeal by the Supreme Court to a starting point of 22 years' imprisonment; *Campbell v R* [2020] NZCA 631 in which Mr Campbell played a leading role in trafficking 6.3 kilograms of methamphetamine and received a starting point of 18 years' imprisonment; and *McMillan v R* [2022] NZCA 128, (2022) 30 CRNZ 455 in which Mr McMillan played a leading role in supplying 10 kilograms of methamphetamine and received a starting point of 17 years' imprisonment.

conclusion that a 20 year starting point for Mr Kulu was within range and correct.[45] Referencing the differently constituted division of this Court's decision in Mr Fangupo's case, this Court noted again that that division did not have the benefit of the later authorities where the offender undertook a "leading" role whereas those relied on in *Fangupo* involved offending at the intermediate "significant" role.[46] It declined to follow the approach in *Fangupo.* Further, the Court declined to alter Mr Kulu's starting point on parity grounds and referred to the Court's observation in *McKay v R* that "[a] lenient or unusually merciful sentence extended to one offender cannot create an expectation other offenders will receive the same indulgence."[47]

[50] To complete the backdrop, the Supreme Court in *Berkland* referred to *Fangupo* briefly without comment in referencing post *Zhang* cases.[48] It also subsequently dismissed Mr Kulu's application for leave to appeal his sentence.[49]

[51] It follows that the Judge in Mr Feleti's case was not only at liberty not to follow *Fangupo* for the starting point imposed but was entirely correct to do so.[50]

[52] Mr Feleti's role was not at the lower end of a "leading" role. Nor was it an error to find that Mr Feleti's role was more serious than Mr Vuletic's "by some measure".[51] The fact that he did not establish the baggage handling syndicate but merely took advantage of it does nothing to reduce his culpability. He clearly had some contact with them albeit not the primary contact, and he had a critical role close to the product source. Similarly, we do not read the summary of facts in the way Mr Olsen invites us to. The communications Mr Feleti had with "Wiseman" do not read as a superior directing a subordinate. At the very least they have the air of a joint enterprise or a syndicate headed in New Zealand negotiating payment arrangements by liaising closely with an international supplier.

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45 At [28].
46 At [30].
47 At [34], citing *McFarlane v R* [2012] NZCA 317 at [24].
48 *Berkland v R*, above n 9, at [48].
49 *Kulu v R* [2023] NZSC 26.
50 We also note that the cases referred to by the appellant in which *Fangupo* has been cited by this Court post *Zhang* (see above at n 32) are not in respect of the starting point.
51 Judgment under appeal, above n 6, at [63].

[53] Just as the Judge found, we consider Mr Kulu's case to be squarely on all fours with Mr Feleti. While other cases do not determine the starting point but operate as a cross-check, the inevitable conclusion is that the starting point of 20 years was well within range given role and quantity. A survey of more recent decisions of this Court as a further cross-check shores up our view.[52]

[54] We therefore dismiss this aspect of the appeal.

Was the uplift for money laundering too high?

[55] The second limb of the appeal challenges the uplift for money laundering. Mr Olsen submitted that the uplift of 12 months was excessive because the starting point for standalone offending of this nature would have been two years and six months based on *R v Wilson*.[53]

[56] Ms Fenton submitted that the money laundering was significant and an uplift of 12 months was well within range having regard to *R v Chase.*[54] In that case a starting point of three years and nine months was considered appropriate for money laundering of $1.4 million characterised as reckless.

[57] We agree with the respondent that the uplift of 12 months was well within range for what is serious and deliberate offending aimed at facilitating profiting from drug offending. We also accept that the Judge had due regard to the concept of totality.

[58] Accordingly, we dismiss this aspect of the appeal.

Did the Judge err by imposing an MPI?

[59] Mr Olsen submitted that an MPI is not necessary for deterrence and denunciation where a defendant is unlikely to re-offend or their personal

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[52] See, for example, *Yu v R* [2022] NZCA 382 in which Mr Yu played a lower end significant role in the importation of one shipment of 110 kilograms of methamphetamine, receiving a starting point of 22 years' imprisonment; and *Zagros v R* [2023] NZCA 334 in which Mr Zagros had a higher end significant role in the importation of 3.67 kilograms of methamphetamine, receiving a starting point of 15 years' imprisonment.

[53] *R v Wilson* [2022] NZHC 1901.

[54] *R v Chase* [2018] NZHC 1022.

circumstances weigh against the need for imposing an MPI. In this respect, he pointed to substantial, real and genuine rehabilitation engaged in by Mr Feleti while on EM bail to show that he is unlikely to reoffend and that there is no need for personal deterrence.

[60] The short point made by Mr Olsen was that an MPI does not serve any statutory purpose in this case so its adoption was an error. He referred to several cases involving serious commercial drug offending where it was nevertheless held unnecessary to impose an MPI.[55]

[61] Ms Fenton submitted that the Judge did not approach this question routinely or in a "mechanistic" way. He turned his mind to whether the standard release period of one-third would be sufficient and concluded it would not. Ms Fenton contended that there is a place for the imposition of an MPI where the offending is commercial and serious, such as the case here.

Discussion

[62] The Judge gave brief reasons for imposing an MPI.

[63] The provisions of s 86 of the Sentencing Act 2002 guide any decision to impose an MPI. The question here is whether the objective of holding Mr Feleti accountable, denouncing his conduct and deterring him and others was fully achieved by the high finite sentence imposed on him. If so, no MPI is justified.

[64] We consider that a longer MPI than the standard non-parole period of four years and nine months in this case is not necessary to achieve the sentencing purposes in s 86(2) of the Sentencing Act. The Parole Board will address community protection when Mr Feleti is assessed as to readiness for release.[56]

[65] Mr Feleti's expression of remorse in his letter of apology and the extensive rehabilitative efforts he has made during a lengthy period on EM bail, as attested to by

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55 Referring to *Tran v R* [2021] NZCA 464, (2021) 30 CRNZ 430 at [54]; *Hura v R* [2023] NZCA 7; and *Cole*, above n 32.

56 See *Hura*, above n 55, at [32]; and *Cole*, above n 32, at [33].

the various letters of support from community youth organisations, inform our conclusion. The various rehabilitative programmes he has engaged in satisfy us that he has done enough to show a resolve to reform, recognises the harm to the community that methamphetamine offending causes and is turning his life around. We note the letters of support from the programme director at New Zealand Bail Accommodation and Support Services, where he was appointed House Host Leader, and his work as a volunteer youth worker for the Solomon Group completing a placement to achieve his Level 4 Youth Work Certificate.

[66] We have not overlooked that, unlike the appellant in *Cole v R*,[57] Mr Feleti does not have a clean conviction history. Nonetheless, that history is now aged. While his risk of reoffending has been assessed as medium, the circumstances in which that assessment was made did not permit a comprehensive review of all relevant matters.[58] Neither have we overlooked the purpose of general deterrence given the significant financial benefits anticipated from this offending. However, as this Court said in *Cole* "[w]e do not consider that the principle of general deterrence outweighs all the factors which point against the need to impose an MPI".[59] That conclusion is equally apposite in Mr Feleti's case.

Result

[67] The application for an extension of time to appeal is granted.

[68] The appeal against sentence is allowed in part.

[69] The minimum period of imprisonment is set aside. The appeal against sentence is otherwise dismissed.

Solicitors:
Te Tari Ture o te Karauna | Crown Law Office, Wellington for Respondent

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57 *Cole v R*, above n 32.

58 The suggestion is that the probation officer did not have access to all the information now available to the Court.

59 *Cole v R*, above n 32, at [37].