IN THE COURT OF APPEAL OF NEW ZEALAND

I TE KŌTI PĪRA O AOTEAROA

CA183/2025
[2026] NZCA 4

BETWEEN	SHUCHEN LIU Appellant
AND	THE KING Respondent

Hearing:	12 November 2025
Court:	Whata, Edwards and Walker JJ
Counsel:	D P H Jones KC for Appellant H D L Steele and B N Kirkpatrick for Respondent
Judgment:	3 February 2026 at 11.30 am

JUDGMENT OF THE COURT

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

B The appeal is dismissed.

REASONS OF THE COURT

(Given by Walker J)

[1] On 4 December 2024, Judge K Lummis sentenced the appellant, Mr Liu, on 11 drug-related, money laundering and firearms charges following guilty pleas.[1] He was sentenced to 14 years' imprisonment. He now appeals his sentence.

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1 *R v Hao* [2024] NZDC 32301 [sentencing notes].

[2] He argues that the sentence is manifestly excessive and offended against the totality principle because the Judge adopted a cumulative starting point that was too high. He also contends that the credit for his guilty pleas was inadequate.

Extension of time to appeal

[3] The notice of appeal was filed outside the time permitted to appeal as of right. The appellant has explained the reasons for the delay and the Crown does not oppose an extension of time being granted. As the delay was not lengthy and no prejudice is identified, we grant the application for an extension of time.

Background

[4] The drugs charges are representative and stem from the appellant's involvement heading a drug syndicate involving numerous others under his direction and control, supplying (among other things) very large quantities of methamphetamine and MDMA.

[5] The offending was summarised by the Judge as follows:[2]

> [26] … The investigation was code named Operation Cincinnati and Escondido. Between July 2019 and the termination by police on 28 October 2020, [the appellant was] responsible for possessing and supplying commercial quantities of methamphetamine, ephedrine, and MDMA. In February 2020, a pink Porsche pill press was delivered to [his] home address … From [his] address, [he] produced bulk quantities of pink Porsche MDMA pills. Assisted by others, [he] obtained significant amounts of MDMA powder and mixed it with other agents such as binders and caffeine before mixing in pink dye and pressing the powder into pills stamped with the Porsche logo. [He] would supply these pills in commercial quantities, generally 1,000 pills at a time. [He] would source MDMA from different sources, both domestically and internationally. This included importation dating back to 23 July 2019, which confirms [his] involvement in drug dealing started well prior to the importation of the pill press.
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> [27] [His] offending took place under the cover of [his] business. In mid-2020, [he] hired a commercial warehouse in … St Johns. Intercepted conversations show that the pill press was moved to the … premise in late July. [He] imported a second pill press in October 2020, which was delivered to the warehouse … on 21 October. The renting of the warehouse allowed [him] to expand [his] operation and start manufacturing methamphetamine. During the investigation, police observed regular comings and goings from the warehouse between August and termination, by three of [his] associates

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2 Sentencing notes, above n 1.

> and [the appellant], carrying equipment and material consistent with the manufacture of methamphetamine. It is clear from everything before me that [he was] easily able to source large quantities of ephedrine to use in the manufacture process. [He] established a network of associates and dealers used to distribute products throughout New Zealand for significant financial gain.
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> …
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> [29] Prior to termination, the last manufacture resulted in at least 983 grams of methamphetamine which was found at [his] address … As well as manufacturing methamphetamine, [he was] importing methamphetamine. [He] had the assistance of a [courier driver] acting as a catcher for four packages, each containing almost a kilogram of methamphetamine in late September 2020 and October 2020. The methamphetamine was hidden in consignments of shoes and clothing.
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> [30] [He] generated significant amounts of cash throughout [his] drug dealing empire and with the help of [his] wife, [he] laundered large portions into bank accounts and utilised that money to purchase luxury vehicles, including two Ferraris purchased in October and December 2019. [He] used [his] construction business as cover and discussed using cash to pay employees.

[6] The appellant pleaded guilty to:

(a) methamphetamine offending involving at least 5.965 kilograms made up of importation, manufacture of commercial quantities (including at least 983 grams on the last occasion), possession for supply and supply;

(b) MDMA offending involving at least 19,260 MDMA pills and 6.1 kilograms of MDMA powder;

(c) possession of ephedrine of at least 2.6 kilograms and possession of precursor substances;[3]

(d) firearm offending involving a nine millimetre "Bruni" pistol and ammunition; and

[3] Approximately one kilogram of iodine, 20 litres of hypophosphorous acid and 62 grams of methyl alpha-phenylacetoacetate (MAPA).

(e) money laundering including at least $203,148 of cash deposits plus two Ferrari motor vehicles and a Ford F150 Shelby Super Snake motor vehicle.

[7] The appellant participated in an evidential video interview (EVI) with police on arrest. He accepted he had been involved in supplying both methamphetamine and MDMA. He told police that others had been cooking methamphetamine at the warehouse and acknowledged that the methamphetamine found at his address was from their recent manufacture. He also admitted that the motivation was commercial gain and that he generally sold ounces of methamphetamine rather than grams.

Sentencing decision

[8] In her sentencing notes, the Judge directed herself to the guideline decisions for methamphetamine offending in *Zhang v R* and *Berkland v R*.[4] She noted that "while the quantum of methamphetamine is the initial measure for assessing the appropriate starting point, quantum alone is not necessarily determinative of culpability".[5] There was no dispute that, based on quantum, the appellant's offending comfortably sat within the top band of *Zhang* which attracted a starting point ranging between 10 years to life imprisonment. The Judge noted that the summary of facts recognised that the appellant's role was a leading one so that the only issue was where the appellant's offending sat within that category.[6]

[9] The Judge considered that the drug syndicate led by the appellant operated with a relatively high level of sophistication with a network of dealers distributing throughout the country enabling considerable profits.[7] She accepted that the appellant was in control of the manufacturing and that he and his wife had rented the premises specifically to set up the manufacturing operation.[8] Describing the appellant as a "big thinker taking every opportunity to expand what was a very successful drug dealing

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4 *Zhang v R* [2019] NZCA 507, [2019] 3 NZLR 648; and *Berkland v R* [2022] NZSC 143, [2022] 1 NZLR 509.
5 Sentencing notes, above n 1, at [36].
6 At [36].
7 At [38].
8 At [41].

business", the Judge considered that a true reflection of the quantum the appellant was dealing would have been more than that recorded in the summary of facts.[9]

[10] Turning to the comparator cases cited by the Crown and defence, the Judge considered that the 18-year starting point in *Campbell v R* was instructive and that the offending of Mr Harding in *Berkland* with its 22-year global starting point was not dissimilar, although it contained the additional feature of gang-connected distribution.[10] The Judge identified that the offending period of 16 months and involvement in both manufacture and importation elevated the level of planning and premeditation in the appellant's case above the importation authorities referred to by the parties.[11]

[11] This led to the Judge adopting a starting point of 20 years' imprisonment for the methamphetamine offending, in line with the Crown's submitted range and two years above the defence's submitted starting point of 18 years.

[12] The Judge then turned to consider the uplift for the Class B drug offending.[12] After totality considerations and guided by this Court's decision in *Hall v R* (which arose from the same police operation) the Judge considered a four-year uplift appropriate with no further uplift for the firearms and money laundering offending because of its interwoven nature.[13] This resulted in a global starting point of 24 years.[14]

[13] Regarding personal mitigating features, the Judge began with the guilty plea credit. She set out the chronology from first appearance to guilty plea before concluding that, because the appellant (and his wife) were the last in the operation to plead guilty, any credit must be limited.[15] Taking into account the strength of the prosecution case, the admissions made on arrest, the drugs found on termination of the

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9 At [42].

10 *Campbell v R* [2020] NZCA 631; and sentencing notes, above n 1, at [45] and [48]–[49], citing *Berkland v R*, above n 4.

11 At [49].

12 This comprised the charges relating to the possession for supply and supplying MDMA and possession of ephedrine for supply. (Misuse of Drugs Act 1975, s 2 and sch 2).

13 Sentencing decision, above n 1, at [50]–[52], citing *Hall v R* [2024] NZCA 532.

14 Sentencing decision, above n 1, at [52].

15 At [53].

operation and the credits given to the appellant's co-defendants the Judge settled on 12 per cent as the appropriate credit.[16]

[14] The Judge then turned to the personal background history of the appellant, including the lack of relevant prior convictions, remorse and rehabilitative prospects. The Judge considered that the primary offending motive was profit rather than addiction or other background factors but nonetheless accepted that a further allowance of 28 per cent was appropriate.[17] We note that the Judge accepted that the appellant was remorseful and taking steps to better himself to ensure he can contribute legitimately and meaningfully without turning back to drug dealing on release.[18]

[15] Collectively, those factors led to an overall credit of 40 per cent and a final sentence of just under 14 and a half years before allowance to recognise the appellant's bail conditions, though they were limited to a night time curfew. This reduced the effective end sentence to 14 years' imprisonment.[19]

[16] Finally, the Judge declined to impose a minimum period of imprisonment but imposed an order for reparation of $230,000 to be paid to the owner of the premises where the methamphetamine was manufactured and a further order for reparation of $100,000 to be paid to the insurer of the building, in respect of the losses arising from methamphetamine contamination.[20]

Appellant submissions

[17] In focused submissions on behalf of the appellant, Mr Jones KC submitted that the end sentence is manifestly excessive; a cumulative starting point of no more than 22 years (reflecting totality considerations) is appropriate; total allowances of 45 per cent are justified and the end sentence should be no longer than 12 years' imprisonment.

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16 At [54]–[57].
17 At [70].
18 At [66].
19 At [71]–[73].
20 At [78].

[18] Mr Jones submitted that, although band five of *Zhang* is engaged, the quantity of methamphetamine involved is still at the lower end of that band compared to current importation trends. He submitted that a person considered to be a ringleader of a smaller scale operation (as here) should not have his role artificially inflate the starting point.

[19] He contended that a starting point of 18 years for the methamphetamine offending (and certainly no more than 19 years) is available based on comparative cases.[21] He noted that the four-year uplift for Class B offending amounted to a 20 per cent increase in penalty which contributed to an excessive global starting point. He argued that the level of uplift should be tempered by the substantial core sentence for the methamphetamine offending in accordance with the totality principle.

[20] Regarding the guilty plea credit, Mr Jones submitted that an allowance of 15 per cent was justified given the appellant's early acceptance of responsibility when first interviewed by police. He contended that a plea had in fact been heralded for a considerable time but issues outside the control of the appellant informed its late timing, including substantial disclosure and COVID-19 interruptions. He noted that the plea was entered together with an agreed amended summary of facts of 10 pages in length, rather than the entry of a plea followed by a disputed facts hearing. He highlighted that while this necessarily extended the time for a plea, it conversely reduced the need for expenditure of court resources. He also pointed out that the Crown at sentencing had accepted that a 15 per cent allowance was available.

Crown submissions

[21] Mr Kirkpatrick, for the Crown, suggested that the established quantum of just under six kilograms of methamphetamine was a conservative conclusion. He supported the Judge's reliance on the sentencing of Mr Harding in *Berkland*. In terms of the challenge to the uplift, Mr Kirkpatrick submitted that a reduction was unwarranted when considered in the context that the appellant's role in the MDMA offending on a standalone basis would likely attract a starting point in the range

21 *Campbell v R*, above n 10; *Chai v R* [2020] NZCA 202; *Tang v R* [2021] NZCA 266; and *Pratap v R* [2021] NZCA 308. Counsel also referred to the sentence appeal of Mr Thompson in *Zhang v R*, above n 4, at [265]–[281].

of 12 years. Further, no additional uplift was applied for the remaining serious drug, firearms and money laundering offending.

[22] As to the guilty plea allowance, Mr Kirkpatrick contended that the late stage at which the guilty plea was formally entered, the overwhelming prosecution case and the fact that the sentencing Judge was well placed to determine the appropriate reduction given that she had sentenced most of the co-defendants, supports the allowance of 12 per cent.

Analysis

[23] We must assess whether there is an error in the sentence imposed such that we should impose a different sentence.[22] The focus must be on the end sentence and whether it is manifestly excessive, not the steps by which it was determined.[23]

[24] This Court emphasised in *Zhang* that the quantity of drugs is an important measure of culpability but not the only relevant factor.[24] The role played by the offender is also an important consideration in fixing culpability.[25] This was endorsed by the Supreme Court in *Berkland*, when it stated that starting point composition begins with quantum followed by consideration of the offender's role.[26] We observe that it is also well recognised that there is flexibility to move within or between the quantum driven bands depending on the "potency of role".[27]

[25] We have reviewed the cases referred to us by counsel for both parties. We consider that the appellant's role means that his offending is significantly more

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22 Criminal Procedure Act 2011, s 250(2).
23 *Tutakangahau v R* [2014] NZCA 279, [2014] 3 NZLR 482 at [35]–[36].
24 *Zhang v R*, above n 4, at [104].
25 At [118].
26 *Berkland v R,* n 4, at [45].
27 At [64].

serious than the cases relied on by Mr Jones.[28] It is sufficient to refer to the appeal by Mr Harding in *Berkland* since, like the sentencing Judge, we consider this is the most direct and instructive case.

[26] Mr Harding was the leader of an organised enterprise involving a high level of planning and premeditation.[29] He pleaded to 11 charges of manufacture and distribution via gang connections. The six separate manufactures produced at least six and a half kilograms of methamphetamine. He employed others and was a hands-on boss controlling every aspect of the operation. The Supreme Court said those matters justified an uplift on the generally available 18 year starting point for importation and supply cases involving similar quantities.[30] The Court set a starting point of 21 years for the manufacturing charges plus a one-year uplift for the supply charges.[31] The observations of the Supreme Court in relation to Mr Harding's sentence are apposite. As the sentencing Judge noted in the present appeal, the only material difference between the appellant's methamphetamine offending and Mr Harding's offending was the additional feature of distribution by Mr Harding through his gang connections.[32]

[27] Almost all the indicia of a leading role identified by the Supreme Court in *Berkland* are present in the appellant's offending.[33] The Judge did not err when she noted that the level of planning and premeditation elevated the appellant's culpability

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28 *Chai v R,* above n 21: The quantity (some 60 kilograms of ephedrine and two kilograms of methamphetamine) was on the cusp of bands four and five of *Zhang* and Mr Chai's importation role was as a catcher. The starting point for the methamphetamine importation was reduced by this Court from 15 years to 13 years with a three-year uplift for the more sizeable importations of ephedrine. The Court observed that the ringleader of a supply operation concerned with around 1.95 kilograms of methamphetamine might expect a starting point near the top of the band at 16 years. *Tang v R,* above n 21: Mr Tang was a leading offender in his own wholesale operation and was not generating large profits. The starting point of 16 years' imprisonment was not disturbed on appeal but the uplift for the supply of ephedrine was reduced to six months resulting in a global starting point of 16 years, six months' imprisonment. *Pratap v R*, above n 21: This Court imposed a starting point of 13 years' imprisonment on Mr Pratap in respect of importing 2.369 kilograms of methamphetamine, with a leading role but at the lower end of band five. The Court described it, at [26], as a "small-scale operation when compared to many commercial methamphetamine operations."

29 *Berkland v R*, above n 4, at [49].

30 At [49].

31 At [52]–[53].

32 Sentencing notes, above n 1, at [49].

33 *Berkland v R*, above n 4, at [71].

beyond the other authorities referred to by counsel.[34] As Mr Kirkpatrick submitted, this was an expansive operation which involved recruiting and directing others, along with coordinating importations of methamphetamine. It is also apparent that the financial rewards enjoyed by the appellant were significant.

[28] Mr Kirkpatrick submitted, and we accept, that the Judge was particularly well placed to identify and assess the appellant's role relative to his co-offenders given her oversight of the criminal proceedings arising out of this police operation and her sentencing of his co-defendants.

[29] For the reasons stated, we consider the starting point of 20 years' imprisonment, although stern, was available given the organisational scale, the nature of the appellant's leading role and the quantities involved in the methamphetamine dealing (though we too accept this quantity is not exceptionally large compared to trends in importation quantity).

[30] Mr Jones submitted that, if the MDMA offending was instead treated as increasing the quantity of methamphetamine offending, it would not have resulted in any increase in starting point. That submission artificially conflates two related but distinct arms of the appellant's business enterprise. The observation in *Tang v R* that, viewed in light of Mr Tang's offending as a whole, the particular ephedrine transaction added little to the assessment of overall culpability, does not assist in the present case in respect of an entirely different illicit substance, unrelated to the manufacture of methamphetamine.[35]

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[34] *Campbell v R,* above n 10: This involved possession of 6.3 kilograms of methamphetamine for supply over two years and a starting point of 18 years. *Zhang v R*, above n 4, at [265]–[281]: Referring to the sentence appeal of Mr Thompson, which involved one representative charge of supplying 4.2 kilograms of methamphetamine and one charge of possession of 2.6 kilograms of methamphetamine for supply with a starting point of 18 years' imprisonment. In addition, we have had regard to *Birchall v R* [2025] NZCA 566 in which the sentencing Judge assigned a starting point of 16 years' imprisonment in respect of importing and offering to supply at least 3.8 kilograms of methamphetamine, uplifted by 18 months for a charge of importing MDMA. The starting point was not in issue on appeal but in reviewing components of the Judge's sentence, this Court said, at [16], that the starting point for the lead offences and the uplift for the MDMA charge was within range. This was lesser offending in volume terms and while sophisticated was at a lower scale with lesser sophistication than the appellant's offending.

[35] *Tang v R*, above n 21, at [26].

[31] Instead, it is material that the MDMA offending on a standalone basis may have attracted a starting point in the range of 11–12 years because it is serious offending in its own terms.[36] It is only once totality is considered that this offending attracts a much lesser uplift.

[32] In sum, once totality is considered, and the potential for further uplifts for the firearm and money laundering recognised, the resulting uplift of four years in the context of the starting point is justified. It is consistent with this Court's approach in *Hall* where there was a lesser quantity of MDMA offending involved and this Court considered that an uplift of three years had been too light.[37]

[33] Turning to consideration of the guilty plea, the Supreme Court in *Hessell v R* said that a guilty plea allowance should reflect all of the circumstances in which the plea was entered including the timing, strength of the prosecution case and whether the defendant has benefited from a plea arrangement.[38]

[34] While a 15 per cent guilty plea credit was available, the amount of the reduction was clearly within the Judge's sentencing discretion. Furthermore, the credits were carefully assessed but equally, could have been lower given this offending was not driven by addiction but commercial profit. Additionally, the further deduction for bail conditions was generous.

[35] In conclusion, for the reasons set out, we are not persuaded that the end sentence is manifestly excessive.

Result

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

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36 *R v Kadosh* CA367/04, 15 April 2005 in which importation of three kilograms of MDMA warranted a starting point of 11 years' imprisonment; and *Chai v R*, above n 21, in which this Court considered offending involving 60 kilograms of ephedrine (Class B type drug) would have attracted a starting point of 12 years had it been a sole charge.

37 *Hall v R*, above n 13. This Court said that a three-year uplift for MDMA offending involving not less than 4.257 kilograms together with an unknown commercial quantity of "Pink Porsche" pills, rather than being excessive, was generous given the significant quantity of drugs supplied, its commerciality, the use of Airbnb premises for packaging, storage and dealing and the possession of an unlawful firearm. The Court observed, at [28], that collectively the offending would have justified a four-to-five-year uplift on the lead offending starting point, taking into account totality.

38 *Hessell v R* [2010] NZSC 135, [2011] 1 NZLR 607 at [62] and [74].

[37] The appeal is dismissed.

Solicitors:
Zhang Law, Auckland for Appellant
Crown Solicitor, Auckland for Respondent