SUPREME COURT OF QUEENSLAND

CITATION:	*R v Phillips* [2026] QCA 114
PARTIES:	**R** **v** **PHILLIPS, Cameron James** (applicant)
FILE NO/S:	CA No 267 of 2024 SC No 29 of 2024
DIVISION:	Court of Appeal
PROCEEDING:	Sentence Application
ORIGINATING COURT:	Supreme Court at Cairns – Date of Sentence: 21 November 2024 (Henry J)
DELIVERED ON:	19 June 2026
DELIVERED AT:	Brisbane
HEARING DATE:	16 June 2026
JUDGES:	Mullins P, Boddice JA, Johnstone J
ORDER:	**Application for leave to appeal against sentence refused.**
CATCHWORDS:	CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – SENTENCE MANIFESTLY EXCESSIVE OR INADEQUATE – where the applicant pleaded guilty to trafficking in a dangerous drug (methylamphetamine) (count 1), three counts of possessing a thing used in connection with trafficking in a dangerous drug (counts 13-15) and possessing a thing for use in connection with trafficking a dangerous drug (count 16) – where the applicant was sentenced to 10 years' imprisonment on count 1 and convicted and not further punished in respect of each of counts 13-16 – where the applicant's antecedents showed a history of drug related offences – where the sentencing judge took into account the favourable observations made by the applicant's engagement with rehabilitation and counselling, the hardship imprisonment would have on the applicant's family and the gravity of the offending behaviour – where the sentencing judge took into consideration the applicant's guilty pleas despite the guilty plea for trafficking being not particularly timely – where the applicant failed to show the sentence was manifestly excessive CRIMINAL LAW – APPEAL AND NEW TRIAL – APPEAL AGAINST SENTENCE – GROUNDS FOR INTERFERENCE – SENTENCE MANIFESTLY EXCESSIVE OR INADEQUATE – where the applicant

pleaded guilty to trafficking in a dangerous drug (methylamphetamine) (count 1), three counts of possessing a thing used in connection with trafficking in a dangerous drug (counts 13-15) and possessing a thing for use in connection with trafficking a dangerous drug (count 16) – where the applicant made submissions to the prosecution on the period particularised for count 1 but agreement was not finalised and the applicant pleaded not guilty when arraigned – where the parties later reached agreement on amended particulars on ground 1 – where the sentencing judge treated the applicant's guilty pleas in respect of counts 13-16 as late – where the sentencing judge characterised the applicant's guilty plea in respect of count 1 as not particularly timely despite the amendment of the particulars – where there was no error in the sentencing judge's characterisation of the applicant's guilty pleas

R v Coutts [2016] QCA 206, cited
R v Nunn [2019] QCA 100, cited
R v Smith (2022) 10 QR 725; [2022] QCA 89, cited
R v Walker [2022] QCA 54, cited

COUNSEL: P J Wilson KC, with J B Reeves, for the applicant (pro bono)
C M Cook for the respondent

SOLICITORS: Wildermuth Legal for the applicant (pro bono)
Director of Public Prosecutions (Queensland) for the respondent

[1] **THE COURT:** On 18 November 2024 the applicant pleaded guilty to trafficking in a dangerous drug (methylamphetamine) between 11 February and 12 October 2022 (count 1), three counts of possessing a thing used in connection with trafficking in a dangerous drug (counts 13-15) and possessing a thing for use in connection with trafficking a dangerous drug (count 16). The applicant was sentenced on 21 November 2024 to 10 years' imprisonment for count 1 and convicted and not further punished in respect of each of counts 13-16. It was declared that three days in pre-sentence custody between 18 and 21 November 2024 was imprisonment already served under the sentence.

[2] There are two grounds of appeal:

1. The sentence is manifestly excessive.

2. The sentencing judge erred in the characterisation of the applicant's pleas of guilty and failed to give sufficient weight to those pleas.

History of the charges

[3] The applicant was arrested and charged on 11 October 2022. The indictment was presented on 7 March 2024 against both the applicant and his brother. The trafficking period particularised in count 1 for the applicant was between 16 July 2021 and 12 October 2022. The trial for both defendants was set down in November 2024 for seven to 14 days. A submission to the prosecution was made on behalf of the applicant on 11 April 2024. The prosecution agreed at that stage to reduce the

trafficking period, so that it commenced on 11 December 2021, but other portions of the submission which related to the factual basis for the sentence were not accepted. The submission had extended to discontinuing the counts which the prosecution ultimately discontinued. The defendants were arraigned on 17 April 2024 when the applicant pleaded not guilty and his brother pleaded guilty. The trial estimate was reduced to five days. The applicant's brother was sentenced on 10 June 2024. By 24 October 2024, the applicant's matter was listed administratively for arraignment. On 18 November 2024, the prosecution amended the trafficking period for count 1 so that it commenced on 11 February 2022 and discontinued counts 3, 4, 9-11 and 17. Each of counts 3, 4, 10 and 11 was receiving tainted property. Count 9 was supplying a dangerous drug (MDMA) and count 17 was contravening order about device information from digital device.

Applicant's antecedents

[4] The applicant completed year 12 at school. He worked as a maintenance person, professional fisherman and hospital wardsman. His employment at the hospital ended when he injured his knee. The applicant has a teenage son.

[5] The applicant was 45 years old during the trafficking period. His prior criminal history was in the Magistrates Court and shows he had a problem with illegal drugs from aged 20 years for which he was fined and given probation for various drug related offences including probation for two years when he appeared in the Supreme Court on 24 November 2009 for possessing dangerous drugs committed on 11 January 2008. On 15 September 2016 he was sentenced in the Magistrates Court to imprisonment for two years for possessing dangerous drugs of which he was required to serve six months in custody. It was the first occasion for which he served imprisonment. He was dealt with again on 23 April 2018 for possessing dangerous drugs for which he was given a wholly suspended sentence of six months' imprisonment for an operational period of three years. The criminal history showed a pattern of offending for a cluster of several years but then a substantial break before the applicant lapsed back into another period of offending before the pattern was repeated. There was a breach of bail for the subject offences committed on 9 November 2022 when the applicant failed to report on one occasion for which he was fined. He was dealt with for minor drug offences committed on 15 June 2023 for which he was fined $200 on 21 August 2023. His traffic history that showed he committed the offence drive while relevant drug is present on 19 January 2023 and 7 January 2024 confirmed he was still using illicit drugs after being charged with the subject offences.

[6] The applicant was referred to the Alcohol and Drug Service (AODS) by St Vincent de Paul Society Residential Recovery Service where he had completed four weeks of the residential program. He accessed AODS on 15 occasions between 28 February and 21 August 2024 for eight counselling or assessment sessions (lasting an hour each) and seven group education sessions (some lasting up to two hours each). The applicant was actively engaged with QuIHN Therapeutic Services between July and November 2024. He participated in an eight-week psychoeducation closed-group program and five individual counselling sessions. The letter from QuIHN noted that the applicant's engagement had "been consistent and proactive, even in the face of considerable barriers, including housing instability, financial hardship, and reported persistent anxiety and low mood". The letter also noted that the applicant "expressed a commitment to achieving and maintaining abstinence from substance use" and

"acknowledged the detrimental impact his problematic substance use had on his relationships, decision-making, and life in general". It was also noted that the applicant "expressed regrets and remorse for the harm caused to himself and others and to his son and family" and that the applicant's "commitment to personal growth and sustained recovery is largely motivated by his desire to be a present and positive influence in his son's life".

[7] As a result of his long term drug use, the applicant had significant damage to his teeth that were described in the report obtained from dentist Dr Frias dated 31 October 2024 as "missing, broken down and abscessed teeth" which were affecting the applicant's quality of life, as his ability to function and eat normally was severely compromised. The report noted that the applicant required the removal of unrestorable teeth, the replacement of missing teeth and the restoration of other teeth.

Circumstances of the offending

[8] The police commenced a surveillance operation on 11 February 2022 that targeted the applicant. It included telephone intercepts and listening devices in the applicant's vehicles. The applicant used encrypted messaging applications like Wickr. It was accepted that the applicant was a drug user but the sentencing proceeded on the basis that the applicant was motivated by commercial gain and conducted a well-organised and sophisticated drug trafficking operation throughout the period. The business was well-established at the commencement of the trafficking period. The applicant sourced methylamphetamine in 250 gram quantities from an unknown supplier. The applicant paid $80,000 for each 250 gram lot. During the trafficking period the applicant made 21 trips to where the supplier's drugs were stored, his brother made three trips at the applicant's direction, and they made two trips together.

[9] The applicant would generally sell 250 grams within a period of two weeks to a customer base of about 30 people. Based on the telephone intercepts there were over 100 occasions on which the applicant supplied this customer base. He supplied predominantly in ounce quantities but sometimes supplied a small quantity for a higher profit margin. The applicant was making a profit of $3,000 per ounce or $26,400 per 250 gram lot. On the basis of 17 drug collections from the supplier during the trafficking period the profit would have been $448,000, subject to the applicant's consumption of some of the drugs. The turnover based on 17 trips to collect drugs was about $1.8m. The prosecutor gave examples of threats made by the applicant in respect of customers who owed money. The applicant attempted to avoid police detection by using codes when messaging others and avoiding the use of drug terms during telephone calls. He was able to find other suppliers when unable to source supplies from his usual supplier who cut him off on 5 October 2022 when he owed that supplier $130,000. The applicant would obtain vehicles and other property from his customers as either collateral or payment for drugs.

[10] During the execution of the search warrant, police found $100,310 in cash which was the subject of count 16. There was $90,000 cash hidden in clothing in a clothes dryer that had been accumulated by the applicant largely by borrowing from family members to pay his drug debt to the supplier. Counts 13 and 14 related to two motor vehicles, namely a Ford Ranger Raptor and a Mercedes Benz C Class, that the applicant had used in connection with the offence of trafficking. (They were used for the trips to the applicant's supplier.) Count 15 related to an iPhone that the applicant had used in connection with the offence of trafficking.

Sentencing remarks

[11] Apart from summarising the offences and the applicant's antecedents, the sentencing remarks included the following. It should not have taken over seven months after the indictment was listed for trial for negotiations between the applicant and the prosecution to result in guilty pleas. The ultimate resolution was consistent with what had been proposed earlier by the applicant. The mixed outcome, particularly the date change to trafficking, spared the guilty pleas from being characterised as late but it remained difficult to describe them as particularly timely. An earlier guilty plea could have been entered for the trafficking on the basis that the plea was for a period within the date span the subject of the charge (and a contested sentence could then ensue) and a plea of guilty could easily have been entered earlier for counts 13-16. The guilty pleas for those four counts were "obviously late pleas". The sentencing judge then observed:

> "Nonetheless, all of that said, Mr Phillips, it remains that your pleas of guilty, whilst not particularly timely, still carry significant utility in the administration of justice, and they should be taken into account and will be taken into account in mitigation of sentence."

[12] It was unhelpful for the demonstration of immediate commitment to rehabilitation after being charged with the offences that the applicant had one breach of bail conditions and committed some minor drug offences in June 2023 and also the offences of driving while relevant drug was present.

[13] The applicant's attempts at rehabilitation became realistic about addressing his drug issues in the recent months before the sentencing. The sentencing judge quoted extensively from the QuIHN letter and observed that it was a shame that the applicant had not taken into account the effect on his son's life when he was committing the offences.

[14] The sentencing judge accepted that the applicant had a heavy habit of using about an ounce of methylamphetamine per month which would have eroded the applicant's profit margin from trafficking. The sentencing judge took into account that the applicant's imprisonment would cause a degree of hardship to the future care of the applicant's son and that other members of the applicant's family had stepped forward to take care of him whilst the applicant was in custody. The sentencing judge referred to the favourable observations made about the applicant in the letter from QuIHN. The rehabilitation and counselling engaged in by the applicant since February 2024 were considerations in the applicant's favour. Even deducting the debt of $130,000 owed by the applicant to the supplier from the notional profit of $480,000, the applicant made a lot of money out of this venture. The difficulty for sentencing the applicant was in "the sheer gravity of the offending behaviour".

[15] The prosecution's submission for a sentence approaching 12 years' imprisonment, although conceding that the sentence may extend as low as 10 years' imprisonment, was supported by authority. (The comparable authorities that the prosecutor relied on at the sentencing hearing were *R v Smith* (2022) 10 QR 725, *R v Nunn* [2019] QCA 100, *R v Malone* [2021] QCA 76 and *R v Walker* [2022] QCA 54.) Even allowing for the applicant's mitigating circumstances by way of deduction from the head sentence, a sentence in the vicinity of 12 years was not an inappropriate sentence. Even though the inevitable result of a sentence of 10 years' imprisonment was a declaration that it was a serious violent offence, the applicant's offending was too serious to result in a sentence below 10 years.

Did the sentencing judge err in the characterisation of the guilty pleas?

[16] Even though ground 2 is expressed in terms of an error both in the characterisation of the applicant's pleas of guilty and failing to give sufficient weight to those pleas, the question of weight given to a particular factor cannot be a specific error where the *House v The King* standard of appellate review applies to the exercise of the sentencing discretion: see *R v Coutts* [2016] QCA 206 at [4]. As counsel for the applicant conceded, ground 2 therefore should be considered by reference to the specific error otherwise identified in the ground that the sentencing judge erred in the characterisation of the guilty pleas.

[17] The sentencing judge treated the guilty pleas to counts 13-16 as late but was more subtle in dealing with the timing of the guilty plea to count 1 which was the most significant offence which the applicant was facing. In relation to count 1, the issue is whether the sentencing judge's description of the guilty plea as not late but not particularly timely was in error. The sentencing judge recognised that it was to the applicant's advantage to obtain the agreement of the prosecution to reduce the period particularised for the trafficking to that which commenced on the same date the surveillance operation targeting the applicant commenced. The timing of the applicant's ultimate decision to plead guilty had to be considered in the context that the applicant had made a submission to the prosecution on 11 April 2024 about the reduction of the trafficking period and the offences to which he was prepared to plead guilty but entered not guilty pleas when arraigned on 17 April 2024. The matter then remained listed for trial until late October 2024 when the Court was requested that the matter be listed for arraignment. There was no defence to counts 13-16 which reflected aspects of the trafficking. It was apparent that from the date the surveillance operation commenced, the prosecution had access to sufficient evidence to support the count of trafficking from that date. The sentencing judge's criticism of the applicant waiting until relatively close to the date listed for trial to resolve the negotiations with the prosecution is explicable by the effect on the availability for trial listings for other matters. In the circumstances where the trial date had been set some eight months in advance from the date the indictment was presented, the characterisation of the guilty plea to count 1 as not particularly timely (but where the pleas of guilty were still treated as of utility and a mitigating factor) was not inapt.

[18] There was no error in the sentencing judge's characterisation of the guilty pleas. The applicant fails on ground 2.

Was the sentence manifestly excessive?

[19] The applicant emphasised the effect of s 161B of the *Penalties and Sentences Act 1992* (Qld) when a sentence of 10 years' imprisonment is imposed for the offence of trafficking. The applicant points to the significant effect on the time spent in custody before parole eligibility when the head sentence for trafficking is reduced from 10 years to nine and one-half years. If a sentence of nine and one-half years' imprisonment were imposed with parole eligibility at the halfway mark, the applicant would have been eligible for parole after serving four years nine months in custody rather than the eight years in custody which must be served in respect of a sentence of 10 years' imprisonment. The applicant criticises the sentencing judge's sentencing remarks for not directly identifying the effect of sentencing the applicant to 10 years rather nine and one-half years.

[20] The sentencing judge's sentencing remarks explained that the balancing of the aggravating and mitigating factors resulted in a sentence for count 1 of 10 years' imprisonment. The sentencing remarks reveal that the sentencing judge was aware that such a sentence results in the parole eligibility date being fixed after 80 per cent of the sentence of 10 years' imprisonment is served in custody. The sentence was consistent with the comparable authorities to which the sentencing judge had been referred. In fact, in each of *Nunn*, *Walker* and *Smith* a sentence of 10 years' imprisonment had been imposed for trafficking in methylamphetamine over a period that was less than the applicant's trafficking period. Although there were differences in whether the offender was drug addicted, the quantity of drugs trafficked, the numbers of customers and the profits generated from the trafficking, there were sufficient similarities in each of these comparable authorities to support the conclusion by the sentencing judge as to the appropriateness of a sentence for the applicant as a mature offender of 10 years' imprisonment.

[21] The applicant has failed to show that the sentence of 10 years' imprisonment which carries with it an automatic serious violent offence declaration was manifestly excessive.

Order

[22] The order which should be made is: Application for leave to appeal against sentence refused.