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THE SUPREME COURT OF  
THE NORTHERN TERRITORY

SCC 22307045 and 22424657

THE KING

and

TERRY SEAN BARRY

(Sentence)

KELLY J

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON TUESDAY 12 NOVEMBER 2024

Transcribed by:  
EPIQ

HER HONOUR: I am going to sentence you now, Mr Barry, you can stay sitting down while I do that because I need to talk to you about a few things. Terry Barry, you have pleaded guilty to a number of charges on two separate indictments.

On the indictment dated 11 June 2024 on a file ending 045, you have pleaded guilty to four charges:

One charge of intentionally manufacturing less than a commercial quantity of methamphetamine, a Schedule 1 drug, on 27 April 2022, the maximum penalty for which is imprisonment for 25 years.

One count of intentionally possessing equipment for use in the manufacture of methamphetamine, also on 27 April, the maximum penalty for which is imprisonment for 7 years.

One count of intentionally manufacturing less than a commercial quantity of methamphetamine on 6 May 2022, the maximum penalty for which is again imprisonment for 25 years.

And one count of intentionally possessing equipment for use in the manufacture of methamphetamine on 6 May 2022, the maximum penalty for which is imprisonment for 7 years.

On an indictment dated 15 October 2024 on file ending 657, you have pleaded guilty to three charges:

One charge of intentionally manufacturing less than a commercial quantity of methamphetamine on 25 July 2024. These maximum penalties are the same each time and I am not going to repeat them.

One count of possessing a precursor with the intention of using it to manufacture methamphetamine on 25 July 2024, the maximum penalty for which is imprisonment for 7 years.

And one count of intentionally possessing equipment for use in the manufacture of methamphetamine on 25 July 2024, the maximum penalty I have already stated.

On the indictment dated 11 June 2024, these are the facts:

As at April 2022, you were 55 years old, living in a small one bedroom unit. The unit is part of a Territory Housing complex, and you were the sole occupant of the unit. Sometime before 8:53 pm on Wednesday, 27 April 2022, you used the one pot method to manufacture a quantity of methamphetamine inside the bathroom of the residence.

At about 8:53 pm on that day, you made a 000 phone call to police advising that a man at your unit could not breathe after injecting a drug. Police and St John's Ambulance paramedics went to the unit a short time later and attempted to

resuscitate the man. He could not be revived and was pronounced dead at around about 9:44 pm. As part of the police investigation into the death, a search was conducted at the unit.

During this search, police found and seized, among other things, equipment used for manufacturing methamphetamine, a plastic bowl containing a black granular substance consistent with a completed one pot methamphetamine cook and a substance which, when it was analysed, was found to contain both methamphetamine and pseudoephedrine which is a precursor, and also a methamphetamine smoking kit.

They also found a trafficable quantity of cannabis, but that is not one of the charges I am dealing with.

This is counts 3 and 4 on that same indictment:

On or about Friday, 6 May 2022, you again used the one pot method to manufacture a quantity of methamphetamine inside the bathroom of the unit. On 6 May 2022, police executed a search warrant at the unit.

During the search, the police found and seized more equipment and chemicals for making methamphetamine, a plastic bottle containing the same kind of black granular substance consistent with a completed one pot methamphetamine cook, as well as a substance which, when analysed, was found to contain both methamphetamine and pseudoephedrine, hydrochloric acid, which was a precursor, and some pipes for smoking methamphetamine.

You were offered a chance to participate in an electronically recorded interview with police in relation to the seized items and you declined, which is of course your right.

On the indictment dated 15 October 2024, file ending 657, these are the facts:

As at Thursday, 25 July 2024, you were 57 years old and the sole resident of the same unit. On that date, police executed another search warrant at the unit. At some time before the search date you obtained chemicals, including pseudoephedrine, caustic soda and mineral turpentine. You obtained a quantity of lithium removed from assorted batteries. You used these items by means of the one pot method to manufacture some methamphetamine, again in the bathroom of the unit.

You were cautioned and remained present during the search. No one else was there. Upon entry to the premises, an inactive small capacity production lab was found in your bathroom. Police found and either seized or photographed equipment and chemicals used for making methamphetamine and precursors including lithium and pseudoephedrine. They also seized three mobile phones and a large number of syringes.

Police arrested you and took you to the Alice Springs watch house. Police examined your seized Oppo A3S mobile phone and found messages on Facebook Messenger indicating supply of illicit substances to a number of different people on 4 January 2024, 7 March 2024, 21 March 2024, 5 July 2024 (two of those) and 24 July 2024. You again declined to participate in an interview with police, which of course is your right. The Crown are seeking forfeiture of all the seized items.

I am going to talk a bit about you now. You have a prior criminal history in the Northern Territory which consists mostly of driving and fairly minor drug offences, mainly possession of small amounts of various drugs.

Your lawyer has given me some information about your personal circumstances. Until the age of 5, you were raised by your mother in Glenelg in South Australia along with your three older half siblings from your mother's first marriage and a younger sister.

Your parents provided, I am told, a loving and stable home during this period. Your father worked full-time as a bricklayer and your mother was at home caring for the five children. You had a close relationship with your parents and the kids all got along well.

Your father drank on a daily basis, but he did not have a drinking problem, he just had a couple of beers after work. There was no domestic violence or conflict. From 5 to 8 years of age, apparently your family experienced a fairly significant traumatic and emotional period.

Your father was involved in a serious workplace accident and was hospitalised for some time. Doctors told him he would never work again. When he came home, apparently, he was changed. He was later diagnosed with cancer and had some fairly horrendous medical treatment and died the following year.

Of course, this was a very difficult time for you, grieving for your father. Your mother had to go back to work. She obtained employment as a cook at various hospitalities around Adelaide. They involved shiftwork and as a consequence of that, you were mostly raised by your older siblings.

I am told you went to Glenelg Primary School and completed Year 10 at Mawson High School, also in Glenelg. At the end of Year 10, I am told, you became aware that your older brother was using drugs and you obtained a clip seal bag of heroin from your brother's friend. This later led to heroin addiction.

Between about 18 and 36 years of age, you were taking heroin on a daily basis, but you were a high functioning heroin addict. You did not turn to crime. You were working consistently in the building and construction industry, having earlier left school and gone on the show circuit, for a time working at the Glenelg Amusement Park and then going on circuit with the show.

As far as your personal relationships are concerned, from about 31 to 36, you had a five-year relationship in which you and your partner had three sons. You separated amicably. You left her with the home to raise the children and you have kept in contact.

When you were about 37 years old, I am told you injected a crush opioid tablet wrongly into an artery and caused yourself serious injury. You had to have surgery on your arm and multiple fingers were amputated, so you lost the ability to work as a plasterer which was what you had earlier qualified as, and you were placed on a disability pension.

Following that injury, you went on a methadone program and you beat your heroin addiction, which is to your credit. But you then developed an addiction to methamphetamine.

I need to talk to you a little bit about the things I need to think about when I am sentencing you.

These are in fact serious offences reflected in the maximum penalties. Methamphetamine is a pernicious drug. It leads people into misery, personality changes and criminal behaviour, as you know from personal experience. I need to emphasise denunciation, general and personal deterrence, sending a message that the court and the community disapproves strongly of this kind of offending.

I need to impose a sentence that will discourage you and others from this kind of offending. I also need to consider rehabilitation. You have pleaded guilty, and you are entitled to some reduction in your sentence for your willingness to facilitate the course of justice. I intend to reduce your sentence by 20 percent for your guilty plea and acceptance of responsibility.

So starting with the indictment dated 11 June 2024 for counts 1 and 2; one count of intentionally manufacturing less than a commercial quantity of methamphetamine on 27 April, and one count of intentionally possessing equipment for use in the manufacture of methamphetamine on the same date.

You will be convicted and sentenced to an aggregate sentence. The starting point is 3 years, but it will be reduced by 20 percent to 2 years and 5 months.

On that same indictment for the offending on 6 May 2022, that is again intentionally manufacturing less than a commercial quantity of methamphetamine and possessing equipment for that manufacture on 6 May 2022, again the starting point is 3 years and 6 months.

Reducing that by 20 percent, you will be convicted and sentenced to a term of imprisonment for 2 years and 10 months. I am going to direct that three months of the aggregate sentence for counts 1 and 2, that is the 27 April offences, be cumulative on the sentence for counts 3 and 4, that is the 6 May offences, which leads to a total on that indictment of imprisonment for 3 years and 1 month.

On the indictment dated 15 October 2024, there are three charges, intentionally manufacturing less than a commercial quantity of methamphetamine, one count of possessing a precursor with intent to use it to manufacture methamphetamine and one count of intentionally possessing equipment for use in the manufacture of methamphetamine, all on 25 July 2024. The starting point is again an aggregate sentence of 3 and a half years, reduced from 20 percent.

So on those three charges, you will be convicted and sentenced to an aggregate term of imprisonment for 2 years and 10 months. I am directing that 5 months of that sentence, that is the 25 July 2024 offences, be cumulative on the sentence on the indictment dated 11 June 2024, which brings a total effective sentence to a term of imprisonment for 3 years and 6 months beginning on 9 July 2024.

I am going to direct that your sentence be suspended after you have served 9 months in total on the following conditions:

I fix an operational period of 3 years. That means that for 3 years after your release, you must not commit another offence punishable by imprisonment. If you do, you will be brought back to the court and you may well have to serve the balance of the sentence, in addition to any other sentence you received. So that is an important condition. I am going to direct that for the operational period:

- 1) You will be under the supervision of a Probation and Parole officer.
- 2) You are to obey all reasonable directions of a Probation and Parole officer.
- 3) You report to a Probation and Parole officer within two days.
- 4) You report a change of employment or address to a Probation and Parole officer within two days.
- 5) You are not to leave the Northern Territory.
- 6) At the direction of a Probation and Parole officer, you are to attend the Venndale Residential Rehabilitation program or other program which is assessed as suitable and do nothing to cause your early discharge from the program.
- 7) You are not to possess or consume any dangerous drugs and you are to submit to testing as directed by a Probation and Parole officer.

Have I missed anything out?

MR DALRYMPLE: Not from the Crown, your Honour.

HER HONOUR: Yes, all right. Mr Lapinski? All right, we cannot hear you.

MR LAPINSKI: I beg your pardon, nothing arising, your Honour.

HER HONOUR: Thank you. All right, well, thank you for that. We will terminate the connection.

MR LAPINSKI: As the court pleases.

MR DALRYMPLE: Court pleases.

HER HONOUR: Thank you.

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