



Yaakub Bin Selamat/Salamat

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 1 of 2013)**

**Steven Chong, J.
8 December 2014**

Criminal law – Sentence – Consumption of methylamphetamine – Second offender – Minimum sentence – No arguable case – Application for leave to appeal dismissed.

Applicant unrepresented.

PO Hajah Atiyyah Azzahra POKLSDSLJ Awang Haji Abas for the Public Prosecutor.

Cases cited:

Jason Toh Han Heng v Public Prosecutor [2012] 1 JCBD 190.

Warsono Bin Sukaimi v Public Prosecutor [2005] 2 JCBD 68.

Steven Chong, J.:

This is an application for leave to appeal out of time against sentence.

On 18 December 2012 in the Magistrate's Court the defendant was convicted after a trial of 3 offences under the Misuse of Drugs Act: (i) consuming methylamphetamine contrary to section 6(b) on 3 September 2009; (ii) consuming methylamphetamine contrary to section 6(b) on 27 May 2010; and (iii) possession of utensil intended for consumption of a controlled drug contrary to section 7 on 27 May 2010.



Magistrate Harnita Zelda Skinner sentenced the defendant to 3 years' imprisonment on each of the consumption charges to be served concurrently and a fine of \$1,000 or 2 months' imprisonment in default of payment on the possession charge.

A Petition of Appeal against any judgment, sentence or order pronounced by any Magistrate in a criminal case to the High Court must be filed within 14 days from the time of such judgment, sentence or order being passed pursuant to section 272 of the Criminal Procedure Code.

The defendant's "*Notice of Appeal*" was filed on 2 January 2013.

No explanation was given by the defendant for the delay in filing his appeal.

Moreover, the defendant does not have an arguable case against sentence. Leave to appeal will not be granted in the absence of an arguable case even if the delay is excusable or it is so short that it is just to overlook it: see *Jason Toh Han Heng v Public Prosecutor* [2012] 1 JCBD 190.

The defendant was previously convicted of drug consumption under section 6(b) on 20 September 2000. The Magistrate was therefore obliged to impose a minimum sentence of 3 years' imprisonment on the drug consumption charges by virtue of section 29 (3A) of the Misuse of Drugs Act.

True it is that there is a long lapse between the defendant's convictions for drug consumption. But a lapse between convictions no matter how long cannot, by itself, be regarded as a ground for not imposing the minimum sentence required under the law: see *Warsono Bin Sukaimi v Public Prosecutor* [2005] 2 JCBD 68.

For these reasons the application for leave to appeal is dismissed.

DATO PADUKA STEVEN CHONG

Judge, High Court