

**Abdul Aziz Bin Haji Ali**

AND

**Public Prosecutor**

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**(High Court of Brunei Darussalam)  
(Criminal Appeal No. 16 of 2021)**

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Steven Chong, CJ

**26 July, 2021.**

*Criminal law – Consumption of methylamphetamine – Second offender – Minimum sentence.*

Applicant In Person.

DPP Pg Hj Nor'azmeena Bte Pg Hj Mohiddin for Public Prosecutor.

**Case cited:**

*Mohd Rosdy Bin Abdullah v Public Prosecutor* [2001] 1 JCBD 186

**Steven Chong, CJ:**

On 9 December 2020 in the Magistrate's Court the applicant pleaded guilty to consuming methylamphetamine contrary to section 6(b) of the Misuse of Drugs Act.

Magistrate Mohammad Marzuqi Bin Sabtu sentenced the applicant to 3 years' imprisonment.

This is the applicant's application to appeal out of time for the sentence of imprisonment to be substituted with an order for rehabilitation.

As there is a delay of over 3 months in filing the Notice of Appeal the applicant must give a satisfactory explanation for being dilatory and that the appeal is likely to succeed.

The offence was committed by the applicant on 3 October 2019. He was previously convicted of drug consumption in 1994.

Section 29(3A) of the Misuse of Drugs Act provides for a minimum sentence of 3 years' imprisonment for a second or subsequent drug consumption offender.

Undoubtedly, there is a long lapse between the convictions of the applicant but this factor, in itself, is not sufficient to justify not imposing the mandatory minimum sentence of 3 years' imprisonment: *Mohd Rosdy Bin Abdullah v Public Prosecutor* [2001] 1 JCBD 186.

The applicant is a 47 year old unemployed man with a very bad record of 32 theft related prior convictions. At the time of sentencing for this drug consumption offence in the court below the applicant was already serving a sentence of 5 years 4 months' imprisonment for theft.

Even if the applicant can explain away the delay in his appeal it is clear he has no arguable case against the sentence imposed.

The application is dismissed accordingly.

**DATO SERI PADUKA STEVEN CHONG**

Chief Justice