

Public Prosecutor

AND

Aliman Bin Haji Kalong

**(Court of Appeal of Brunei Darussalam)
(Criminal Appeal No. 6 of 2007)**

Power, P; Mortimer and Davies, JJ.A.
7th November, 2007.

Sentence passed less than the minimum under S. 3A and 2nd Schedule of the Misuse of Drugs Act Cap 27.

DPP Suriana Radin and DPP Suzana Abas for the Public Prosecutor.
Defendant in person.

Mortimer, J.A.:

1. On 5 May 2007 the Respondent (Aliman) pleaded guilty to 4 offences under the Misuse of Drugs Act CAP 27 before HHJ Lim in the Intermediate Court. We are concerned with the first charge which was committed on 27 January 2007 when he was found in possession for trafficking of 41.051 grams of methylamphetamine (a Class A drug) contrary to Section 3A of the above Act.
2. For this offence he was sentenced to 18 years' imprisonment and 10 strokes. The 3 other offences were less serious. On the 2nd offence he was sentenced to 4 years' imprisonment, on the third to 1 year's imprisonment and on the 4th offence which was one of possession for trafficking of 8.067 grams of a similar drug he was sentenced to 5 years' imprisonment concurrent but 5 strokes cumulative. The total sentence was therefore 18 years' imprisonment and 15 strokes.
3. DPP's Miss Suriana and Suzana Abas who appear for the Public Prosecutor contend that the sentence passed on the first charge of 18 years' imprisonment and 10 strokes is not according to law. They refer to Section 3A and the Second Schedule of the Act which was amended on 13 February 2002. This provides that for possession of methylamphetamine for the purpose of trafficking of not less than 40 grams and not more than 100 grams a maximum sentence of 30 years and 15 strokes and a minimum of 20 years and 15 strokes.
4. The offence was committed and the sentence was passed long after the amendment to the law. The DPP's submissions are correct.
5. In these circumstances we are driven to allow the appeal against sentence on the first charge and we substitute a sentence of 20 years' imprisonment and 15 strokes. The strokes will not be cumulative with the sentence passed on charge 4 so there will be 15 strokes in all.

Power, P

Mortimer, J.A.

Davies, J.A.