

Rosley Bin Haji Omar

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No.2 of 2018)**

Steven Chong, C.J.

6 March 2019

Consuming controlled drug – Second offender – Minimum sentence of imprisonment – Hardship caused to offender's family not a good reason for not imposing minimum sentence – Long lapse between convictions, by itself, not a ground for not imposing minimum sentence.

Appellant unrepresented.

DPP Evonne Lim for Public Prosecutor/Respondent.

Case cited:

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

Steven Chong, C.J. (ex tempore):

On 24 January 2019 in the Magistrate's Court the appellant pleaded guilty to two counts of consuming methylamphetamine, a Class A controlled drug, contrary to section 6(b) of the Misuse of Drugs Act ("the Act") and one count of possession of utensils intended for drug consumption contrary to section 7 of the Act.

Magistrate Dewi Norlelawati Binti Haji Abdul Hamid sentenced the appellant to 3 years' imprisonment to run concurrently on the section 6(b) charges and a fine of \$1,000 or imprisonment for one month in default of payment on the section 7 charge.

This is an appeal against sentence in respect of the sentence of 3 years' imprisonment.

The two offences of drug consumption were committed by the appellant in November 2014 and April 2015. He was previously convicted of consuming a controlled drug in 1993.

As the appellant was a second offender the Magistrate was required to pass a minimum sentence of 3 years' imprisonment pursuant to section 29(3A) of the Act.

The appellant says the long sentence of imprisonment is causing hardship to his six children and elderly parents as they have been deprived of his support. This is not a good reason for not imposing the minimum sentence although the court has sympathy for the appellant's family.

Nor can a long lapse between convictions, by itself, be regarded as a ground for not imposing the minimum sentence: see *Warsono Bin Sukaimi v Public Prosecutor* [2005] 2 JCBD 68.

The appeal is dismissed.

DATO PADUKA STEVEN CHONG
Chief Justice