



**Pg Metussin Bin Pg Hj Seruddin**

**AND**

**Public Prosecutor**

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**(High Court of Brunei Darussalam)  
(Criminal Appeal No. 41 of 2015)**

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**Steven Chong, J.  
28 April 2016**

Criminal law – Consumption of methylamphetamine – Second offender –  
Sentence.

Appellant unrepresented.

DPP Ms Yvonne Lim for the Public Prosecutor/Respondent.

**Cases cited:**

*Abdul Latif Bin Hj Ismail v Public Prosecutor* [2002]2JCBD115.

*Mohd Rosdy Bin Abdullah v Public Prosecutor* [2001]1JCBD186.

**Steven Chong, J.:**

On 17 October 2015 in the Magistrate's Court the appellant was convicted after a trial of consuming methylamphetamine, a Class A controlled drug, contrary to section 6(b) of the Misuse of Drugs Act.

Magistrate Ak Shahyzul Khairuddien Bin Pg Abdul Rahman sentenced the appellant to 3 years and 3 months' imprisonment.

The appellant appeals against that sentence. He urged the court to consider a non-custodial sentence on the ground that his wife and six children are dependent on him.



Unfortunately, the appellant, who is aged 60, is a second offender under section 6(b). The present offence was committed on 7 June 2012. He was previously convicted of drug consumption in 2006. Thus, the Magistrate was required under section 29(3A) of the Misuse of Drugs Act to impose a minimum sentence of 3 years' imprisonment.

There is a gap of 9 years between the convictions. But this gap, by itself, is not a sufficient reason for not imposing the minimum sentence and it is necessary to consider all the circumstances of the case: *Mohd Rosdy Bin Abdullah v Public Prosecutor* [2001] 1 JCBD 186.

The Magistrate said he could not find any extenuating circumstances to justify the making of a probation order under section 5 of the Offenders (Probation and Community Service) Order, 2006.

I agree. There is none.

Of course I have sympathy for the appellant's family. They will suffer hardship with the appellant in prison. Sadly, this is an inevitable consequence of the appellant's drug abuse. The sentence of 3 years and 3 months is undoubtedly severe. But it is not excessive. A sentence of 4 years is often imposed where a second offender under section 6(b) is convicted after a trial: *Abdul Latif Bin Hj Ismail v Public Prosecutor* [2000] 2 JCBD 115, per Roberts, C.J. at 116.

For the reasons I have given the appeal is dismissed.

**DATO PADUKA STEVEN CHONG**  
**Judge, High Court**