IN THE DISTRICT COURT
OF NSW
IN SYDNEY

Listed for Sentence XX November 2025

Case number 2024 / 0012 3456

R -V- Christopher Nowlan

Outline of submissions for the offender

Offences

1. The offender is to be sentenced to 2x counts of Supply prohibited drug — commercial — Cocaine 580.2 grams , Cocaine 269 grams— Max penalty 20 years, snpp 10 years. (counts 16 and 19)

2. The offender is also to be sentenced for possess prohibited weapon (knuckle dusters count 1 8) — Max penalty 14 years, snpp 5 years

3. The offender is also being sentenced for 1x count of knowingly deal with proceeds of crime, max penalty 15 years, no snpp.

4. The offender is also being sentenced to 2x counts of supply of drugs cocaine 74.75 grams and cocaine 13.04 grams, Max penalty 15 years imprisonment, no SNPP. (Count 21 and 22)

5. The offender also asks the court to take into account the following offence on a form 1.

    a. Supply prohibited drug —Methylamphetamine 111.3 grams,— max penalty 15 years imprisonment, no SNPP (count 17)

6. The defendant is entitled to a 25% discount by virtue of his plea of guilty. [1]

PRE-SENTENCE CUSTODY

7. The offender has been in custody on these matters for a total of 578 days since his arrest on 23 April 2024.

8. The court must take into account any time served by an offender. [2]

9. It is noted that the offender has been sentenced for unrelated offending with a period of imprisonment imposed of 2 years from 23 April 2024, with a non

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[1] s.25D Crimes (Sentencing Procedure) Act 1999 NSW
[2] s47(3) Crimes (Sentencing Procedure) Act 1999 NSW

parole period of 1 year 2 months.

10. In *Callaghan v R* [2006] NSWCCA 58 at Simpson J said at [22] – [23]:

> *[22] … a discretion exists. There is no clear rule which will govern all cases. The circumstances that bring an offender before a court for sentence after parole has been revoked are far too varied to permit a single absolute rule.*
>
> *[23] It would, in my opinion, in some cases be unfair not to backdate to some point (not necessarily the date of revocation of parole) before the expiration of the earlier parole period. It is always open to an offender to seek and be granted parole even after a revocation; to sentence in such a way as to commence the subsequent sentence only on the date of expiration of the whole of the previously imposed head sentence is to assume that, absent the subsequent offences, the offender would not have been granted a second chance at parole.*

11. While in this case the offender's parole has not been revoked — he has not been able to enter into parole solely due to these matters. Given the offender was bail refused on the subject offences, the Court has wide discretion as to when the sentence should commence.

12. When assessing totality, the court may be minded to backdate the sentence to a date earlier than 22 June 2025 which would have been the date he was eligible for parole.

Maximum Penalty and Standard Non Parole Period

13. The maximum penalty represents the legislatures assessment of the seriousness of an offence and thereby provides a sentencing yardstick. [3]

14. As was stated in Makarian at 31: [4]

> *'careful attention to maximum penalties will almost always be required, first because the legislature has legislated for them; secondly, because they invite comparison between the worst possible case and the case before the court at the time; and thirdly, because in that regard they do provide, taken and balanced with all of the other relevant factors, a yardstick.'*

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[3] Elias v The Queen (2013) 24B CLR 483 at [27]; Gilson v The Queen (1991) 172 CLR 353 at 364

[4] Markarian v The Queen (2005) 228 CLR 357 at [31]

15. However, giving careful attention to the maximum penalty does not mean it "will necessarily play a decisive role in the final determination." [5]

16. The Court will also have regard to the non parole periods in accordance with the principles set out in Muldrock [6], noting the Court of Criminal Appeal has accepted that the decision of the High Court in Muldrock has 'weakened the link between the standard non-parole period, and the sentence imposed in a particular case,' and 'diminished the role to be accorded to the standard non-parole period'. [7]

21A Mitigating Factors

17. The offender has good prospects of rehabilitation (h)

18. The offender has shown remorse (i)

19. The offender pleaded guilty (k)

Subjective Circumstances

20. The offender is a 26 year old male with a relevant but short history of drug supply type matters from 2018 and a break & enter offence from the same year.

21. The offender has participated in interviews with Dr Henry Jeckyll and relies on a report dated XX November 2025.

22. The offender details his parents separation at 5-6 years of age and his father's excessive consumption of alcohol. He also describes being introduced to cannabis around 12 years of age and heavier drugs like cocaine, MDMA, benzodiazepine, methamphetamine and LSD around 15 years of age.

23. In *Ingrey v R*, the offender's particular disadvantage was not the circumstances of his immediate upbringing by his mother and father, but his association with peers and extended family who were part of the criminal milieu. They regularly exposed the offender from a young age to criminal activity: *Ingrey v R* at [27]. Such circumstances would have compromised the offender's capacity to mature and learn from experience and amounted to social disadvantage of the kind envisaged in *Bugmy v The Queen*: *Ingrey v R* at [35] – [39]

24. The childhood described by the offender, early introduction to illicit drugs and criminal behaviour would, counsel submits, enliven Bugmy factors relevant to

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[5] Elias v The Queen (2013) 248 CLR 483 at [27]

[6] Muldrock v The Queen (2011) 244 CLR 120 at [26] – [31]

[7] see Regina v Koloamatangi [2011] NSWCCA 288at paras [18) and [19]

this sentence.

25. Included in the defence bundle is a reference from his mother ABC.

    i. ABC — She split up from the offender's father when the offender was 4 years of age and the offender had limited contact with is siblings.
    ii. The offender lost a good friend to a tragic accident at 16 years of age and was already in the grip of heavy cannabis use and negative peer influences.
    iii. The offender has reconnected with his faith and intends on continuing to rekindle his faith on release.
    iv. Both offender's parents are in ill health, with his father being 90 years of age and suffering Alzheimers and co-morbid illnesses and injuries due to his advanced age.
    v. ABC will assist the offender in his rehabilitation in the community.

26. The offender also relies on the affidavit of his brother DEF.

    i. DEF – The offender resided with their father in a housing commission estate when their parents split up. There was limited contact between them as children.
    ii. The offender was couch surfing as a teenager and associating with negative influences.
    iii. The offender began working for his brother prior to his arrest and was performing well.
    iv. His brother believes the offender is drug free and is prepared to provide him with full- time work on his release from custody.

27. The offender also relies on the reference of a friend GHI.

    i. GHI — describes the offender as generous and loyal to his friends, but suffered from drug addiction and gambling addiction.
    ii. The offender is a talented musician and expressed a desire to become gainfully employed in the community.
    iii. GHI Believes the offender has matured during his time in custody.

28. The offender also relies on the comprehensive report of Dr Richard Jeckyll dated XX November 2025.

29. Dr Jeckyll opines the offender meets the DSM 5 criteria for the following mental illnesses:

    a. Substance use disorder (cocaine and methylamphetamines)

b. Gambling Disorder

30. Dr Jeckyll reports on a long history of an unsettled childhood with his parents involved in an acrimonious separation, his father drinking heavily, low self-esteem, and being bullied at school due to his ethnic background.

31. Dr Jeckyll also describes the offender's homelessness and association with drug users in his teens. He describes ongoing drug addiction and gambling addiction since 2018 to the date of his going into custody in 2024.

32. Dr Jeckyll indicates the offender completed the Remand Addictions Course and the Positive Lifestyles Program in 2024. He recommends additional drug and alcohol counselling in the community and an intensive drug program.

33. Dr Jeckyll opines the offender is a moderate risk of re-offending and has reasonable prospects of being successfully rehabilitated provided he can abstain from drug use and gambling.

MENTAL ILLNESS AND DE LA ROSA

34. The offender meets the DSM 5 criteria for Substance Use disorder and Gambling Disorder.

35. In *R v Hemsley* [2004] NSWCCA 228 (at [33] — [36]) Sperling J detailed four ways in which mental illness may be relevant on sentence:

> *First, where mental illness contributes to the commission of the offence in a material way, the offender's moral culpability may be reduced; there may not then be the same call for denunciation and the punishment warranted may accordingly be reduced...*
> *Secondly, mental illness may render the offender an inappropriate vehicle for general deterrence and moderate that consideration...*
> *Thirdly, a custodial sentence may weigh more heavily on a mentally ill person...*
> *A fourth, and countervailing, consideration may arise, namely, the level of danger which the offender presents to the community. That may sound in special deterrence...*

36. In *Director of Public Prosecutions (Cth) v De La Rosa* [2010] NSWCCA 194, the ways in which mental health issues may be taken into account in the sentencing process were detailed as follows: Where an offender is suffering from a mental illness, intellectual handicap or other mental problems the courts have developed principles to be applied when sentencing ... They can be summarised in the following manner:

- Where the state of a person's mental health contributes to the commission of the offence in a material way, the offender's moral culpability may be reduced. Consequently, the need to denounce the crime may be reduced with a

reduction in the sentence... *R v Anderson* [1981] VR 155; (1980) 2 A Crim R 379 3.

- It may also have the consequence that an offender is an inappropriate vehicle for general deterrence resulting in a reduction in the sentence which would otherwise have been imposed...

- It may mean that a custodial sentence may weigh more heavily on the person. Because the sentence will more onerous for the person the length of the prison term or the conditions under which it is served may be reduced…

- It may reduce or eliminate the significance of specific deterrence...

- Conversely, it may be that because of a person's mental illness, they present more of a danger to the community. In those circumstances, considerations of specific deterrence may result in an increased sentence.

OBJECTIVE SERIOUSNESS

37. Whilst the amount of drugs involved in the offending is of a commercial quantity (cocaine counts 16, 19), it is by no means the only, or most important factor. [8]

38. The amount in count 16 is 580.2g, a bit more than twice the threshold amount for that type of drug, and count 19 is 269g, which is just over the threshold for a commercial quantity.

39. The offending was simplistic, there is no evidence of significant planning and the offender rented the hire vehicle in his own name, including his date of birth, mobile phone number, email address, licence number and address.

40. The offending is typical of the dial a dealer method of offending.

41. The offending was in part motivated to feed his ongoing drug and gambling addiction and it has been held that in these circumstances a person is at a lower level of criminality and culpability than a trafficker motivated by greed alone. [9]

42. The offender was complicit with his co-offenders for much of the offending, but it is conceded his was a more active role.

43. The dealing with proceeds offence is a reasonable sum of money, it is involved with the drug trade and he was a trusted accomplice in the hierarchy. It is apparent though that he is being directed in what to do by higher ups in

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[8] Elchikh v R [20161 NSWCCA 225 at [42]

[9] See R v Tulloh (unrep, 16/9/93, NSWCCA) cited at https://www.judcom.nsw.gov.au/publications/benchbks/sentencing/drug_misuse_and_trafficking_act.html

the chain.

44. The weapons offence is not objectively serious, the knuckle dusters were not used in the commission of any offence and were located in a private residence.

SENTENCE

45. The offender concedes the section 5 threshold is crossed and nothing other than a sentence of full time imprisonment is appropriate in the circumstances.

46. However, the court will need to take care when sentencing the offender to avoid a crushing sentence on a young man of 28 years.

47. The task of the court is to ensure that the overall sentence is neither too harsh nor too lenient. Just as totality is applied to avoid a crushing sentence "... it is not to be disregarded for the converse purpose of assessing whether the overall effect of the sentences is sufficient ...": *R v KM* [2004] NSWCCA 65 at [55] cited with approval in *Vaovasa v R* [2007] NSWCCA 253 at [18]. The totality principle is routinely relied upon by the Crown in appeals against inadequacy of sentence. But mostly, the principle is invoked at first instance in the words of McHugh J in *Postiglione v The Queen* (1997) 189 CLR 295 at 308, whereby:

> *the Court ... adjust[s] the prima facie length of the sentences downward in order to achieve an appropriate relativity between the totality of the criminality and the totality of the sentences.*

48. The Court is sentencing a young offender for offences, noting he is currently serving a sentence for unrelated and historical offences.

49. Dr Jeckyll also recommends the offender be referred to the Intensive Drug and Alcohol Treatment Program. The offender would not be an eligible convicted offender due to the commercial quantity of drugs involved in these offences.

SPECIAL CIRCUMSTANCES

50. A longer period of time is required on parole to aid in the offender's drug rehabilitation. [10]

51. The finding of special circumstances is a discretionary finding of fact. [11] The offender's subjective case, Dr Jeckyll opinions, the sentencing assessment report, and community support that he has, and the prospect of full time

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[10] Sevastopoulos v R [2011] NSWCCA 201 at [84] - [85]

[11] R v El-Hayek [2004] NSWCCA 25 at [1 03]; Caristo v R [2011] NSWCCA 7 at [28]

employment all point positively to his prospects of rehabilitation.

52. Additionally, the offender is still a young man and he has a need for treatment of his disorder and drug dependence. [12]

[12] R v Sellen (unrep, 5/12/91 , NSWCCA); Rv Etzakhem [20081 NSWCCA 31 at [68]