

IN THE SUPREME COURT
STATE OF VICTORIA
AT MELBOURNE

THE QUEEN

-v-

AKL HAMMOUD

PLEA OPENING

At the time of the events in question, the prisoner was a 27 year old man who lived at home with his parents and was on a disability pension. He was friendly with Toreq (Tony) Bayeh, who was a person who had a connection with Milad and Horty Mokbel. In February 2006, Bayeh had contacted the prisoner and arranged to store a container of liquid at the premises of the prisoner and his family. In April 2006, that container was collected by Bayeh.

Some days later on 11 April 2006, the prisoner received a phone call from Bayeh asking him to come and meet Bayeh at the BP service station in Dawson Street, Brunswick. The prisoner drove to that location where he met Bayeh, who asked him to remain in his vehicle and follow him. The two vehicles were then driven in convoy to a nearby laneway in Brunswick, where the prisoner parked his vehicle behind Bayeh's vehicle. The two men got out of their respective cars, and Bayeh then loaded a number of items into the boot of the prisoner's car. Both men were under surveillance at this time, and were seen to be standing near the open boot of the prisoner's car. The prisoner asked what the items were, but was told by Bayeh not to worry, and that he would collect the items that night or the next day. The prisoner was highly suspicious about the items he had been given. He closed the boot and drove away. He was followed by police as far as the Caltex service station in Sydney Road, Coburg, where he was apprehended by investigators. A search was conducted of the boot of the vehicle, revealing the presence of a number of items as detailed in the statement of Mike Perkal at page 389 of the Horty Mokbel depositions. In particular,

there were two jerry cans holding 12.3 litres of liquid that contained, by weight, 11.2 kilograms of phenyl-2-propanone, a drug of dependence under the Drugs, Poisons and Controlled Substances Act 1981. Some methylamine and other items connected with the possible manufacture of methylamphetamine were also located in the boot. When asked by police on his arrest about the items in his boot, the prisoner denied any knowledge of them, and claimed they must have been put their by God. When subsequently interviewed by the police in a tape recorded interview, the transcript of which commences at page 1251, Volume 2 of the joint depositions, the prisoner declined to comment in relation to the items found in the boot of his motor car.

The evidence would indicate that the P2P and other items found in the possession of the prisoner on 11 April 2006 had been given to Bayeh by Milad and/or Horthy Mobkel so that they could be delivered to ^{Mr Cooper} a manufacturer of methylamphetamine. The evidence indicates these items were then given by Bayeh to the prisoner on 11 April as described above for safe-keeping. There is no evidence that the prisoner was aware of the origin or eventual destination of the P2P or other items. The commercial quantity of P2P as specified at the time in Part 1 of Schedule 11 of the Act was 2 kilograms. The case against the prisoner is put on the basis that whilst he had the state of mind necessary for proof of trafficking in a drug of dependence, he did not have the state of mind necessary for proof of trafficking in a commercial quantity of such a drug.

Maximum penalty

The maximum penalty under section 71 AC of the Act is 15 years imprisonment

Time in custody

To be advised.

Forfeiture order

The Crown seeks a forfeiture order in respect of the motor car of the prisoner, as set out in the draft orders. Notice of the application has been served upon the prisoner, and the prisoner consents to such an order. In sentencing the prisoner, you would be entitled to have regard to the making of such a forfeiture order in this case, pursuant to section 5(2A) of the *Sentencing Act 1991*.

Disposal order

A disposal order is sought in relation to the items in the schedule attached to the draft order.

Retention order under section 464ZFB of *Crimes Act 1958*

A forensic sample has already been taken from the prisoner in this case. A retention order is sought under section 464ZFB of the *Crimes Act 1958*.

Non-publication

The Crown seeks an order suppressing publication of any report of proceedings in this matter until jury verdict in the trial of Horty Mokbel and Toreq Bayeh. The order is sought under section 19(b) *Supreme Court Act 1986* on the basis that the order is necessary “*not to prejudice the administration of justice...*”