

IN THE COUNTY COURT OF VICTORIA

Revised
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Suitable for Publication

AT MELBOURNE
CRIMINAL JURISDICTION

CR 20-01716
CR 20-01699

DIRECTOR OF PUBLIC PROSECUTIONS

v

VAN LE
CHI VU

JUDGE: HER HONOUR JUDGE QUIN
WHERE HELD: Melbourne
DATE OF HEARING: 14 April 2021
DATE OF SENTENCE: 11 May 2021
CASE MAY BE CITED AS: DPP v Le & Vu
MEDIUM NEUTRAL CITATION: [2021] VCC 582

REASONS FOR SENTENCE

Subject: Conspiring to import a commercial quantity of a border-controlled drug, cocaine; Dealing with money that is proceeds of crime in the sum of \$100,000 or more, believing it to be proceeds of crime, Trafficking in a marketable quantity of a controlled drug (cocaine); Aiding and abetting, trafficking in a controlled drug and failing to comply with an order made under s.3LA of the *Crimes Act* 1914 (Cth).

Catchwords:

Legislation Cited:

Cases Cited:

Sentence:

<u>APPEARANCES:</u>	<u>Counsel</u>	<u>Solicitors</u>
For the Director of Public Prosecutions	Ms K. Breckweg with Ms S. Locke	CDPP
For Accused Le	Mr R. Richter QC with Ms C. Marcs	Stephen Andrianakis & Associates
For Accused Vu	Mr M. Gumbleton	Haines & Polites

HER HONOUR:

- 1 Van Dung Le, you have pleaded guilty to Charge 1 - conspiring to import a commercial quantity of a border-controlled drug, cocaine; Charge 2 - dealing with money that is proceeds of crime in the sum of \$100,000 or more, believing it to be proceeds of crime, and Charge 3 - trafficking in a marketable quantity of a controlled drug (cocaine).
- 2 Chi Cuong Vu, you have pleaded guilty to Charge 4 - aiding and abetting, trafficking in a controlled drug, and Charge 5 - failing to comply with an order made under s.3LA of the *Crimes Act* 1914 (Cth).
- 3 The circumstances of your offending are set out in the Prosecution Opening for Plea (Exhibit A). The principles applicable to sentencing for Commonwealth offences are set out in Part 1B of the *Crimes Act* 1915 (Cth); the Act. A non-exhaustive list of factors set out in s.16A(2) of the Act are matters necessary to consider, in addition to other common law sentencing principles in the sentence to be imposed.

The nature and circumstances of the offence; s.16A(2)(a)

- 4 In July 2018, an investigation commenced into Nasser Abo Abdo (Abdo), Leonor Fajardo (Fajardo) and Rolando Guajardo (referred to as 'Tio'), regarding a conspiracy to import a commercial quantity of border-controlled drugs into Australia from the United States of America. The drugs were concealed inside car audio capacitor banks, stored in three shipping containers in a consignment scheduled to depart California and arrive in Melbourne in February 2019. USA authorities intercepted the consignment prior to its departure and discovered two of the three shipping containers contained drugs; over 1.2 million kilograms of pure methamphetamine, 3.73 kilograms of pure heroin and 15.94 kilograms of pure cocaine. It is this latter amount of cocaine that is the subject of Charge 1.

- 5 Upon interception the drugs were removed then re-packed and re-loaded onto the vessel. Ultimately, travel movements of Abdo and Fajardo from the US meant that the action was taken by authorities before the arrival of containers in Australia, however you were both identified as being involved from the Australian end of the operation.
- 6 In respect of Charge 1 you, Le, have pleaded guilty to conspiring with Abdo and Fajardo to import the 15.94 kilograms of pure cocaine. You were the intended sole recipient of the cocaine and I note that this charge does not relate to the other drugs that were discovered.

7 Your role, Le, in the agreement to import the cocaine included:

(1) Attending at the property where Abdo and Fajardo were residing in Woodstock, Victoria (the Woodstock property), and providing them with encrypted communication devices to avoid detection of your activities. You provided information regarding the cost of encrypted devices, the different types and cost of additional subscriptions and the use and mechanism of communication with encrypted devices, as set out in paragraphs 7(a)(i) to (ii) of the prosecution opening.

(2) Travelling to Melbourne on three occasions in October, November and December to meet with Abdo and Fajardo at the Woodstock property to discuss aspects of the importation. This included sourcing and the use of a new encrypted device, warning that it should not be taken to the US and providing advice regarding passwords; you revealing you were the main contact for this importation and being informed that there was a significant amount of product anticipated. You discussed the containers that were on the water, those that had cleared Customs and the quality of the product within the containers. You were told police had intercepted one of the containers the previous week. You also discussed the quality of the product currently on the streets or available and the method or weights by which the product was sold.

You were assured that there was a nice allocation for yourself and your partners. You discussed the price, quantity and manner of packaging and method of payment. You arranged to meet up with Tio in Sydney in 10 to 12 days. You reiterated to Abdo that you were the contact in Australia, as your brother was in Vietnam (see paragraph 7(b)(i) of the opening).

You met up again at the Woodstock property in November and were informed that things were on hold for a moment. A further meeting took place in December and Abdo discussed with you wanting to rid of the drugs that were here in preparation for the new drugs that were due to arrive. You also spoke about being provided a sample (see paragraphs 7(b)(ii) and (iii) of the prosecution opening). In other listening device recordings you are referred to in conversations between Abdo, Fajardo and Tio (see paragraph 7(iv)).

(3) Co-ordinating the rental of properties in Melbourne including the Woodstock property, a storage facility and a property in Pakenham which was, to your knowledge, (1), used by Abdo and Fajardo to store existing drugs, and (2), was to be used to deconstruct the capacitor banks and extract the drugs once they were imported into Australia.

The Pakenham property was booked by you with Airbnb under a false name. You arranged for extending the lease and were aware that it was suited for the purpose of both storage and to deconstruct the capacitor banks. You were also aware it was necessary to maintain sole control of the property and that there were security cameras installed. You arranged for extending the booking at a cost of \$30,944 for a six month period in anticipation of the drugs arriving in Australia (see paragraph 7(c)(ii) in the opening).

Charge 2: Dealt with proceeds of crime

- 8 As to Charge 2, on 6 December 2018 you, Le, received \$145,000 cash to launder for Abdo and Fajardo. You took the cash in your luggage from Melbourne to Sydney. During the meeting, when you received the funds, you

discussed cash counting machines with Fajardo, who had counted the funds by those means. You explained you would run the cash through various businesses in Sydney and that Abdo could then render invoices and receive payment via cheque or electronic funds transfer. You discussed your experience trafficking large sums of money between Sydney and Melbourne and the method of doing that was simplest with Qantas. You said you were doing the money transfer as a favour to Abdo because he was providing you with product to make some real money later. You believed the money was the proceeds of crime, given your knowledge of the trafficking of existing drugs by Abdo and Fajardo (see paragraph 9 of the opening).

Charge 3: Trafficked a marketable quantity of a controlled drug - namely 356.5 grams of pure cocaine

- 9 As to Charge 3, on 7 February 2019 a search warrant was executed at your residence in Hinchinbrook, New South Wales. Various items and equipment were located including drug accoutrements and a set up consistent with trafficking, four phones (three of which were encrypted) – one of the phones included videos and instructions on the manufacture of cocaine – 356.5 grams of pure cocaine secreted in a bag within the garage; in powder and crystalline form and in brown liquid form.

Charge 4: Aided and abetted the trafficking of a controlled drug

- 10 Vu, you are charged with aiding and abetting Abdo in his domestic trafficking business. From surveillance and phone intercept material it was apparent that Abdo was in possession of drugs that had already arrived in Australia. The drugs were stored at the Woodstock property, the Pakenham property, or a Campbellfield factory, and Abdo intended to sell some or all of those drugs.
- 11 You, Vu, aided and abetted Abdo by configuring an encrypted device provided and sourced by Le, for Abdo, and on giving him instructions on how to use the device and explaining its features. You, Vu, knew that in assisting Abdo to

use the device it would facilitate communications with those overseas individuals regarding the supply and cost of drugs, and with prospective purchasers for delivery and collection of drugs, and that the device provided a means for Abdo to avoid detection in engaging in such communications.

- 12 Your offending and your knowledge of the purpose of providing the encrypted device is evident from recordings from a meeting on 23 November 2018, where you explained to Abdo how to use the encrypted device that you had provided, the mechanism by which all phone activity could be wiped and setting up a 'panic' PIN for the device.

Charge 5: Failed to comply with an order under s.3LA of the *Crimes Act 1914*

- 13 As to Charge 5 – when you, Vu, were arrested, your mobile phone was seized and you were served with the relevant order requiring you to reveal your password for that device to police. You deliberately provided the wrong password to avoid police gaining access to the contents of the device.

Objective Seriousness/Role of the offender

- 14 In respect of Charge 1 your counsel, Le, conceded that the conspiracy involved a high degree of sophistication. Other factors relevant to the objective seriousness of this offence and your role in it include:

(1) The amount of pure cocaine you conspired to import (15.794 kilograms), which represents almost 7.9 times the applicable commercial quantity of 2 kilograms;

(2) The extremely high potential value of the drugs. The estimated wholesale value of the gross amount of cocaine that is the subject of Charges 1 and 3 was estimated to be between \$3.792 and \$4.74m, if sold in kilogram quantities, and \$7.107 and \$9.476m if sold at street level. The maximum penalty for this offence is life imprisonment and/or 7,500 penalty units. The

- potential harm to the community, given the amount of product if available in the market was extensive. The offending was not isolated but occurred over a period of some three and a half months; from October 2018 until February 2019.
- 15 You were to take receipt of the entirety of the cocaine and were acting as a representative of a Sydney based drug enterprise which included you and your cousin (or 'the Captain'). It was accepted that you worked under the direction of your cousin, who resided in Vietnam. You were, however, instrumental in securing the importation of cocaine. The size and value of the cocaine and your role in securing and assisting others with the importation reveals that you occupied a senior and very trusted role in the syndicate. Your role in the importation was extensive and has been summarised above.
- 16 As submitted by your counsel, you are not alleged to be the architect or designer of the importation or distribution enterprise; rather you acted at the direction of others. Your counsel characterised the acts you performed as providing logistical support. It was submitted that your place in any hierarchy was demonstrated by the actions you undertook being almost exclusively at the point of greatest risk of exposure. Even accepting that, you were critical to the plan and provided an important link to the business in Melbourne and were a highly trusted participant.

Motivation: Le

- 17 Your motivation for offending was clearly financial gain. Whilst it is not possible to discern the precise amounts they would have been substantial, given your key role in arranging the importation with others, the enormous quantity to be imported, the value of the cocaine and your position in the syndicate. In terms of your counsel's reliance on drug addiction as playing a role in your offending, given the size of the importation and potential profits, the need to be involved to support an addiction is of limited relevance. You

were a willing and active participant in the offending for financial gain.

- 18 It was accepted there was no evidence of you receiving significant financial enrichment or were engaged in a lavish lifestyle. Such is not unexpected, given the importation never came to fruition. As revealed in the material you were, however, very keen for the enterprise to succeed and you had an expectation of substantial financial benefit.

In respect of the trafficking: Charge 3

- 19 This charge involved trafficking of 356.5 grams of pure cocaine on the basis of possession for sale. That represents 17 per cent of the applicable commercial quantity of 2 kilograms and 178 times the prescribed marketable quantity of 2 grams. The maximum penalty for this offence is 25 years' imprisonment and/or 5,000 penalty units. I was informed that you were attempting to purify the cocaine that had been provided to you and that it was for personal use.

- 20 As to the proceeds of crime charge, the maximum penalty is 20 years' imprisonment and/or 1,200 penalty units. The amount of money, \$145,000, is over the \$100,000 minimum threshold, but the maximum is almost \$1m. Your role was to take the funds from Abdo and Fajardo for the sole purpose of exchanging the tainted money for legitimate cheque or EFT payments to Abdo. You were to receive a 10 per cent reward for undertaking the activity.

- 21 Your counsel submitted in respect of this charge your conduct should be viewed in the context of you trying to impress others who were involved in the importation and that you did not ultimately receive any funds.

- 22 The prosecution conceded that given the amount involved it was at the lower end of seriousness for this offence.

- 23 Clearly the most serious offending relates to your involvement in the attempted importation of a significant amount of cocaine. I accept you had a critical and important role to ensure the success of this operation. Potentially

a huge amount of product at substantial value was going to be available ultimately in the community, with obvious detrimental impact on society as a whole.

Charge 4

24 In relation to you, Vu, in assessing the objective seriousness of your criminality in respect of Charge 4, the maximum penalty for the offence is 10 years' imprisonment and/or 2,000 penalty units. Your role in assisting Abdo was as outlined above. It was submitted that given the efforts taken by you, Vu, to travel from Sydney to Melbourne to provide those instructions, that you ought to be sentenced on the basis that the amount of potential trafficking the device could have facilitated would not have been minimal and you should be sentenced on the basis of aiding and abetting the trafficking of drugs in a quantity at the upper limit of the trafficking threshold; namely 249 grams.

Charge 5

25 In relation to Charge 5 the maximum penalty for the offence is 10 years' imprisonment and/or 600 penalty units. This kind of offending undermines the efforts by law enforcement officers to obtain evidence and thwarts the authority of the court in directing those passwords be provided.

Role: Vu

26 The provision of the device was done in the knowledge that it would be used in trafficking drugs, however your offending occurred on a single day. It was not suggested you knew the specific type or the quantity of the drugs to be trafficked.

Character, Antecedents, Physical or Mental Condition of the Offender:

s.16A(2)(m) - Vu

27 I received a reference on your behalf and I take that material into account

- (Exhibit 1). You are currently aged 28 and were 26 at the time of the offending. You live in Sydney with your parents and four younger siblings. I was informed that none of your family have been involved in the criminal law.
- 28 You completed secondary school in 2010 then attended TAFE for a year, completing certificate level studies. You enrolled part-time in IT at university in 2012. Concurrently, you worked part-time in a warehouse and then worked labouring in the air-conditioning industry. You have completed an internship in IT and then worked full-time in the air-conditioning industry.
- 29 Since your release on bail in May you have been employed as an air-conditioning labourer. You work as a sub-contractor for SP Air-Conditioners and earn approximately \$1,000 a week. You are currently completing formal qualifications at TAFE to become a qualified air-conditioning mechanic and expect to be qualified by the end of the year. You are hopeful of returning to university on a part-time basis once you have completed your qualifications as an air-conditioning mechanic.
- 30 You have no prior convictions and were, before your involvement in this offending, of good character.

Prospects of rehabilitation: s.16A(2)(n) - Vu

- 31 As to your prospects of rehabilitation, I accept you have good rehabilitation prospects given the following matters. (1), Your plea of guilty and remorse; (2), You have spent a period in custody, and that was your first experience of prison. This time was more difficult given the COVID restrictions on visitors. You have good family support, you have complied with strict bail conditions, including a curfew. Your education, qualifications and good employment record and prospects all auger well for your rehabilitation.

**Character, Antecedents, Physical or Mental Condition of the Offender:
s.16A(2)(m) - Le**

- 32 In respect of you, Mr Le, I received the following material. A neuropsychological assessment report of Mathew Staios dated 11 April 2021 (Exhibit 4); character references from family members (Exhibits 5 and 6); medical material relating to your parents (Exhibits 7 and 8). I take that material into account.
- 33 You are currently aged 33 and were 31 at the time of the offending. You have one sister who suffers from autism and you have consistently provided support for her and your parents. Your parents, who are not now in good health, have been dependent upon you for interpreting and translating.
- 34 Your parents fled Vietnam when you were aged three months. Your family were then refugees in Hong Kong and you came to Australia as illegal refugees by boat when you were aged four. Like many others, you and your family experienced trauma on the journey and had difficulties settling and adapting to life in this country. It was in this context that you first used drugs as a young man with peers and this is relevant to your prior convictions.
- 35 You have relevant prior convictions in New South Wales. In December 2007 you were convicted of supplying a prohibited drug in an amount greater than an indictable quantity and being in possession of goods suspected to be stolen. You were then sentenced to a 20 month suspended term of imprisonment.
- 36 You do not have any medical or formal history of mental health issues.
- 37 You met your current wife in 2014 and married a year later. You had your son in 2016. After you married, your wife and your mother would often clash over Vietnamese cultural expectations. Ultimately this conflict caused significant stress on your marriage and relationships with family members. It was at this time that you relapsed into drug use, developing a daily cocaine habit at a substantial cost.

- 38 In the months leading up to your arrest you were experiencing stress and strain as the conflict engulfed your family life. You engaged in avoidant behaviour and commenced cocaine use and abuse. In part, the offending engaged in by you occurred in the context of your cocaine addiction and in order to fund it. You were a significant drug user during the offending period, which spurred your offending conduct. This drug use came about in the context of a significant strain on you because of the conflict with your wife and her conflict with your mother. Although your drug use provides some explanation for your offending it does not excuse it.
- 39 Your separation from your wife, young son and parents whilst you have been in custody is no doubt impacting on them and has caused them a degree of hardship. These are issues that are weighing on you in custody. It was not suggested that exceptional circumstances had been established, though I take into account the impact of you being geographically distant from them in Victoria and the associated isolation. Further, you have been unable to receive visits from your wife and child because of COVID. All of these issues make custody more burdensome for you.
- 40 You have utilised your time well in custody (see Exhibit 10) and have contributed in a positive way to the prison environment. You have adopted a mentoring role with other prisoners and donated Vietnamese prayer books to assist the Vietnamese speaking prison population.
- 41 You have consistently worked whilst in custody; initially in metal work then, as a consequence of your psoriasis, you have been employed as a billet and interpreter for other Vietnamese prisoners. You took up a position in the woodwork department in April this year and also commenced a building and construction course through Kangan Institute. You have taken steps to address drug issues in custody. I was provided with results of urinalysis (see Exhibit 11) and you have undertaken relevant programs in custody. You are to be commended on the efforts you have made whilst in custody.

Prospects of rehabilitation: s.16A(2)(n) - Le

42 As to your prospects of rehabilitation I accept that you have good prospects based on the following. A minimal criminal history; a good and solid work history; a plea of guilty and insight into issues that lead to your offending; your remorse; this being the first time in custody; engagement in prison life and steps taken to address issues whilst in custody and family support.

Pleas of guilty and Contrition: s.16A(2)(f) and (g)

43 Vu, your plea was entered at an early opportunity, without running a contested committal and cross-examining any witnesses.

44 Le, you pleaded guilty at the conclusion of a five day contested committal, having cross-examined several witnesses.

45 Both of you are entitled to a reduction in your sentence on the basis of you both pleading guilty. Both were entered at a relatively early stage in the proceedings once the issues became more limited. Each of your pleas has a utilitarian value and demonstrates a degree of remorse and a willingness to facilitate the course of justice. This is even of more value in COVID times and the impact the pandemic has had on the court system. I also accept your pleas are indicative of remorse.

46 In relation to you, Le, in addition to your plea you have expressed remorse in your letter to the court (Exhibit 9), and to family members (Exhibits 5 and 6). Your remorse is consistent with your attitude and the activities you have engaged in whilst in custody. I was informed you have taken the opportunity to reflect on the prevalence of drugs as a factor leading to others offending and have witnessed the impact of drugs on the community. You have observed the damage to familial relationships as a result of addiction and have expressed regret in engaging in your activities attempting to introduce these harmful substances into the community.

Delay

- 47 As to delay, the period between arrest and sentence is over two years and is not attributable to either of your conduct. You have both had this matter hanging over your heads for a significant period; you, Vu, particularly since your release on bail, have utilised the time and taken positive steps towards your rehabilitation. You, Le, have had this prosecution and the fear and expectation of being sentenced to a significant term of imprisonment hanging over your head. This includes the anxiety surrounding the potential impact your lengthy imprisonment will have on your family.
- 48 As to your co-offenders Abdo and Fajardo, they are both contesting their charges. Their matters, I understand, are currently listed for a directions hearing in this court this month.
- 49 The principles relevant to sentencing for drug offences contrary to the *Criminal Code* (Cth) are uncontroversial and well established. I was referred to *DPP v Masange & Kachunga* [2017] VSCA 204 at 139 with respect to principles that inform the sentencing exercise for importation offences. I have considered each of those factors as set out in paragraph 139, citing paragraphs from *R v Nguyen & Pham* (listed 1 to 13). Additionally, reference was made to the analysis conducted by Justice Beale in respect of comparable cases and sentences imposed. I have considered those principles and cases in respect of the latter as providing a level of guidance, though each depends, of course, on its own circumstances.
- 50 General deterrence is to be accorded significant weight and stern punishment will be warranted in almost every case, given the difficulty of detecting importation offences and the great social consequences that follow. An offender's level of criminality is required to be assessed, though involvement at any level of offending warrants punishment. Where possible, the role played by the offender is of great importance in assessing the objective

criminality of the offending. This kind of offending, involving different players in an illicit drug network, can only succeed if people are ready, willing and able to participate, whatever role they have. Also relevant is the size or amount of drugs, the level of awareness of the details of the participants and the prospective or anticipated rewards for involvement.

- 51 General deterrence is a central sentencing objective in proceeds of crime offending and is the feature of organised, professional crime syndicates. These matters must be weighed against matters personal to an offender including remorse, prospects of rehabilitation and previous good character. Plea of guilty must also be taken into account.

Sentencing submissions

- 52 As to sentencing submissions it was conceded in respect of you, Mr Le, that a sentence of imprisonment must be imposed. It was submitted the sentence imposed in respect of Charge 2 should be concurrent with that imposed in relation to Charge 1, given the activities were linked to the attempted importation. Further, it was submitted that given your rehabilitation prospects, progress in custody and other matters personal to you, that I should impose a shorter than usual non-parole period.
- 53 I note in relation to the submission regarding concurrency the prosecution highlighted the different nature of the offending between Charges 1 and 2 and argued there should be some cumulation, reflecting the separate and entirely discreet offending. I have considered both submissions and some concurrency is warranted, given the 'business' nature of the relationship between Le and his co-offenders.

Vu

- 54 As to you, Mr Vu, your counsel submitted you had served sufficient time in custody; 471 days. His primary submission was that you ought to be

sentenced to a term of imprisonment reflecting the time served; that is, the straight sentence. Alternatively, it was submitted that you be sentenced to a term of imprisonment not exceeding three years, with the time served reckoned as having been served and the balance suspended by way of a recognisance release order. The prosecution did not challenge this alternative submission.

55 Given your involvement was limited to the provision of the relevant device and related to activity over one day in respect of a trafficking simpliciter amount, and having considered all relevant sentencing matters and those personal to you, I am persuaded to adopt this as being the appropriate course to adopt.

Le

56 In respect of Charge 1, Mr Le, and the offence of attempting to import a commercial quantity of cocaine, you are convicted and sentenced to a term of imprisonment of 14 years.

57 In respect of Charge 2, the dealing of proceedings of crime, you are convicted and sentenced to a term of imprisonment of three years.

58 In respect of Charge 3, trafficking, you are convicted and sentenced to a term of imprisonment of four years.

Vu

59 Mr Vu, in respect of Charge 4 you are convicted and sentenced to a term of imprisonment of 18 months, and in respect of Charge 5 you are convicted and sentenced to a term of imprisonment of three months.

Le: Total Effective Sentence

60 In respect of charges to which Mr Le is before the court, six months of the sentence on Charge 2 and 12 months of the sentence on Charge 3 will be cumulative, giving a total effective sentence of 15 years and six months, and I

set a non-parole period of 10 years.

Vu: Total Effective Sentence

61 In relation to you, Mr Vu, the sentence will be wholly concurrent and you are to be released on a recognisance release order after serving a period of 12 months, and that will be for a period of six months. I will just need some assistance from counsel, Mr Vu, as to effectively what that means for you. I think it means that you will be on a recognisance release order for a period of about three months still to go.

62 MR NIKAKIS: Yes.

63 HER HONOUR: I need to tell you though, Mr Vu, the purpose and consequences of making a recognisance release order.

64 The order reflects the gravity of your offence but also the mitigating factors to which I have referred to in the course of these reasons.

65 If you are of good behaviour for the remainder of the period of the recognisance release order that will be the end of the sentencing process as far as the court's concerned. If you are not of good behaviour, in all likelihood you will be brought back before this court and, depending on the nature and seriousness of the transgression, the court may either take no action, impose a fine, extend the period of your good behaviour or impose a different penalty, or revoke the recognisance release order and send you back to prison for the remainder of your sentence. Do you understand that, Mr Vu?

66 OFFENDER VU: Yes. Yes, Your Honour.

67 HER HONOUR: Thank you. Pre-sentence detention please, Ms Breckweg – and can you also explain to me the amount of time that is left for the recognisance release order to expire, given the 18 months with 12 months to serve in respect of Mr Vu.

- 68 MS BRECKWEG: Yes, Your Honour. It doesn't have to be a mathematical equivalent. So Your Honour can impose any good behaviour period you wish up until five years.
- 69 HER HONOUR: All right.
- 70 MS BRECKWEG: So it's, at the moment - - -
- 71 HER HONOUR: But the order itself only goes for the six month period, is that right? Goes for the 18 months?
- 72 MS BRECKWEG: Yes, it - - -
- 73 HER HONOUR: Sorry, the order goes for 18 months. Mr Vu's required to serve 12 months of that time.
- 74 MS BRECKWEG: Yes.
- 75 HER HONOUR: His pre-sentence detention will cover that?
- 76 MS BRECKWEG: That's correct.
- 77 HER HONOUR: Right.
- 78 MS BRECKWEG: And that's in – a recognisance in the sum of \$1,000 or \$500.
- 79 HER HONOUR: Yes, \$500.
- 80 MS BRECKWEG: \$500.
- 81 HER HONOUR: Yes.
- 82 MS BRECKWEG: And then in terms of to be of good behaviour, even though you've convicted and sentenced him to 18 months, to be released after serving 12.
- 83 HER HONOUR: Yes.

- 84 MS BRECKWEG: You can still make a recognisance bigger than six months.
- 85 HER HONOUR: I see.
- 86 MS BRECKWEG: But given that was your intention, Your Honour, it would just be convicted and sentenced to 18 months' imprisonment, to be released after serving 12 months upon giving recognisance in the sum of \$500 to be of good behaviour for six months.
- 87 HER HONOUR: Yes, I think that's the way I will deal with it.
- 88 MS BRECKWEG: Thank you, Your Honour.
- 89 HER HONOUR: Thank you. But I do still have to declare the pre-sentence detention of 471 days, don't I?
- 90 MS BRECKWEG: Yes, you do. That's correct.
- 91 HER HONOUR: Yes, all right. Now, can you then tell me please the pre-sentence detention in respect of Mr Le from today?
- 92 MS BRECKWEG: Yes, Your Honour. I'll just double check that, sorry.
- 93 HER HONOUR: That's okay. You can sit down, Mr Vu, thank you.
- 94 MS BRECKWEG: Yes, Your Honour, I believe it's 825 days for Mr Le.
- 95 HER HONOUR: Eight hundred and twenty-five days? All right.
- 96 MS BRECKWEG: Yes. That's right, Your Honour.
- 97 HER HONOUR: And is it necessary to make s.6AAA declarations?
- 98 MS BRECKWEG: Your Honour, it won't – the jury's out on that question. It's a matter for Your Honour.
- 99 HER HONOUR: All right. I will anyway.

- 100 MS BRECKWEG: Thank you.
- 101 HER HONOUR: Mr Le, if you had not pleaded guilty to this matter I would have imposed a sentence of 19 years with a non-parole period of 15 and, Mr Vu, if you had not pleaded guilty to this matter I would have imposed a term of imprisonment of three years with you to be released after serving two years and entering a recognisance release order for the remainder. Is there any other matters I need to deal with, Ms Breckweg?
- 102 MS BRECKWEG: No. Not at all, Your Honour. Thank you.
- 103 HER HONOUR: Just a minute – maybe there is. Yes, can that recognisance release order please be forwarded to the court, Ms Breckweg?
- 104 MS BRECKWEG: Yes. Certainly, Your Honour.
- 105 HER HONOUR: You usually fill them in, don't you? And then I sign it and Mr Vu signs it?
- 106 MS BRECKWEG: Yes.
- 107 HER HONOUR: Yes, okay. If we could - - -
- 108 MS BRECKWEG: Yes, that's correct. The Director will do that.
- 109 HER HONOUR: Is that able to be sort of done while I'm sitting here?
- 110 MS BRECKWEG: Yes, I think she will give it – my instructor will give it a go.
- 111 HER HONOUR: Okay, thanks.
- 112 MS BRECKWEG: I'm almost finished, Your Honour. It's just coming through in a second.
- 113 HER HONOUR: Yes, that's all right. Thanks.
- 114 MS MARCS: Your Honour, just while we're waiting, I was – would it be

- possible to keep the link open for some five minutes after the court rises, just so I could have a brief chat?
- 115 HER HONOUR: Yes, my staff's indicating that's fine. That will be fine.
- 116 MS MARCS: Thank you.
- 117 MS BRECKWEG: On its way now, Your Honour. Sending it directly to Ms Woods.
- 118 HER HONOUR: Thank you. I think it's come. That's all right, I can see it on her screen. I think it's there now, Ms Breckweg.
- 119 MS BRECKWEG: Okay. Thank you.
- 120 HER HONOUR: All right, I'll sign this order and then I'll have my associate take the order to Mr Vu. What's the date today?
- 121 TIPSTAFF: The 11th.
- 122 HER HONOUR: Sorry? The 11th, thank you. If you could take that to Mr Vu and get him to sign it? Thank you.
- 123 ASSOCIATE: Is this your signature?
- 124 OFFENDER VU: Yes.
- 125 ASSOCIATE: That's been done.
- 126 HER HONOUR: All right, thank you. I'll ask my tipstaff to leave the link open, Ms Marcs, but could everybody else please leave? Thank you.
- 127 COUNSEL: Thank you, Your Honour.
