IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 209

Magistrate's Appeal No 9008 of 2024

Between

Muhamad Zulhilmi Bin Mohamad Sapari

… *Appellant*

And

Public Prosecutor

… *Respondent*

GROUNDS OF DECISION

[Criminal Law — Statutory offences — Misuse of Drugs Act]
[Criminal Law — Statutory offences — Corrosive and Explosive Substances and Offensive Weapons Act]
[Criminal Law — Statutory offences — Prisons Act]
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15 August 2024

Kannan Ramesh JAD:

Introduction

1 This was an appeal by Mr Muhamad Zulhilmi Bin Mohamad Sapari ("the appellant") against the sentence imposed by the District Judge (the "DJ") in *Public Prosecutor v Muhamad Zulhilmi Bin Mohamad Sapari* [2024] SGDC 15 (the "*DAC Decision*"). I dismissed the appeal on 24 May 2024 and delivered brief oral grounds. These are my detailed grounds of decision.

2 The appellant is a 26-year-old Singaporean male who pleaded guilty to two charges under the Misuse of Drugs Act (2020 Rev Ed) ("MDA") and one charge under the Corrosive and Explosive Substances and Offensive Weapons Act 1958 (2020 Rev Ed) ("CESOWA") on 17 January 2024 (collectively, the "Proceeded Charges"). He was convicted on all three charges and given a global sentence of five years' and 18 months' imprisonment and nine strokes of the

cane. The DJ also imposed an enhanced sentence under s 50T(1)(*a*) of the Prisons Act 1933 (2020 Rev Ed) ("PA"), for the Proceeded Charges, which totalled 430 days' imprisonment for the enhanced sentences. The sentences imposed by the DJ are set out in the table below.

Table 1: Sentences imposed on Proceeded Charges

Charge	Offence	Sentence
DAC-907265-2023	s 8(*b*)(*ii*) MDA p/u s 33A(1) MDA p/u s 50T(1)(*a*) PA (Consumption of methamphetamine) ("LT1 Consumption Charge")	Five years' imprisonment and three strokes of the cane Enhanced sentence of 290 days' imprisonment (Consecutive)
DAC-918271-2023	S 7(1)(*a*) CESOWA p/u s 50T(1)(*a*) PA (Possession of knuckleduster) ("CESOWA Charge")	Six months' imprisonment and six strokes of the cane Enhanced sentence of 70 days' imprisonment (Consecutive)
DAC-915667-2023	s 8(*a*) MDA p/u s 33(1) MDA p/u s 50T(1)(*a*) PA (Possession of methamphetamine) ("Possession Charge")	12 months' imprisonment Enhanced sentence of 70 days' imprisonment (Consecutive)

3 The appellant also consented to eight remaining charges under the MDA and CESOWA, such as charges for the consumption of methamphetamine, the possession of drug paraphernalia and the possession of two other offensive weapons, to be taken into consideration ("TIC") for the purposes of sentencing (*DAC Decision* at [7]).

Facts pertaining to charges

4 On 31 December 2022, a team from the Criminal Investigation Department was conducting anti-crime operations at Concorde Hotel. After midnight on 1 January 2023, the appellant was questioned, searched, and found to have a knuckleduster in his underwear. As a knuckleduster was a scheduled item in the Second Schedule to the CESOWA, and the appellant did not have the knuckleduster for a lawful purpose, he committed the offence in the CESOWA Charge.

5 The appellant was arrested and upon further investigation, a black push dagger with an improvised cardboard cover was found in his right pocket.

6 On 1 January 2023, the appellant provided the police with urine samples, which were found to contain methamphetamine. The appellant admitted to having last consumed methamphetamine on 29 December 2022. As methamphetamine is a specified drug in the Fourth Schedule of the MDA, and the appellant was not authorised under the MDA or the Regulations thereunder to consume methamphetamine, the appellant committed the offence in the LT1 Consumption Charge.

7 As the appellant was previously admitted to the Drug Rehabilitation Centre for consumption of methamphetamine on 25 August 2017, and had been convicted, on 27 April 2021, for such consumption under s 8(*b*)(ii) of the MDA and punished under s 33(4AA) of the MDA, he was liable to be punished under s 33A(1) of the MDA.

8 On 15 May 2023, at around 1.00am, the appellant had a family dispute and left his home to consume drugs. While under the influence of the drugs, the appellant drew a black knife from his backpack and wandered around a

residential area. A passerby called the police and the appellant was tracked to his house. At around 4.00am, the appellant was arrested at his home and a Ziplock bag containing 2.8g of crystalline substance was seized. An analysis of the substance was conducted by the Health Sciences Authority and it showed that the bag contained not less than 1.58g of methamphetamine. Investigations revealed that the drugs belonged to the appellant and were in his possession for his consumption. As methamphetamine was a Class A controlled drug listed in the First Schedule to the MDA, and the appellant was not authorised under the MDA or the Regulations thereunder to possess methamphetamine, the appellant had committed the offence in the Possession Charge.

9 From 8 December 2022 to 7 March 2024, the appellant was subject to a remission order made by the Commissioner of Prisons under Division 2 of Part 5B of the PA (the "Remission Order"), which was subject to the basic condition under s 50S(1) of the PA. The appellant's convictions and sentences of imprisonment were breaches of the basic condition per s 50S(1)(*b*)(i) of the PA. Accordingly, he was deemed under s 50S(2) of the PA to have breached the basic condition as at the date of commission of the offences, *ie*, 1 January 2023 for the CESOWA Charge and LT1 Consumption Charge, and 15 May 2023 for the Possession Charge. The appellant was therefore liable for enhanced sentences under s 50T(1) of the PA, not exceeding the remaining duration of the remission order of 432 days for the CESOWA Charge and LT1 Consumption Charge, and 298 days for the Possession Charge.

10 The appellant was traced for drug offences, desertion and voluntarily causing hurt, as set out in the table below.

Table 2: Appellant's antecedents

Date of Conviction	Offence	Sentence
14 September 2018	Desertion from Civil Defence Section 24 Civil Defence Act (Cap 24) ("CDA")	10 weeks' imprisonment
27 April 2021	Enhanced drug consumption Section 8(*b*)(ii) p/u s 33(4AA) MDA (Methamphetamine)	3 years' imprisonment
	Enhanced drug consumption Section 8(*b*)(ii) p/u s 33(4AA) MDA (Methamphetamine)	3 years' imprisonment (concurrent)
	Failure to attend urine test Rule 15(3)(*f*) r/w r 15(6)(*a*) Misuse of Drugs Rules (Cap 185) ("MDR")	6 months' imprisonment (concurrent)
	Desertion Section 24 CDA	9 months' imprisonment (consecutive)
	Voluntarily causing hurt Section 323 Penal Code (Cap 224) ("PC")	$1,000 fine
	Possession of drug utensils Section 9 p/u s 33(1) MDA	TIC
	Failure to attend for urine test Rule 15(3)(*f*) r/w r 15(6)(a) MDR	TIC
	Failure to attend for urine test Rule 15(3)(*f*) r/w r 15(6)(a) MDR	TIC
	Offences relating to scheduled weapons	TIC

	Section 7(1)(*a*) CESOWA r/w s 124(4) r/w s 124(8)(*a*)(ii) Criminal Procedure Code (Cap 68)	
	Assault or use of criminal force Section 352 PC	TIC

The DJ's decision

11 The DJ sentenced the appellant to the minimum mandatory sentence of five years' imprisonment and three strokes of the cane for the LT1 Consumption Charge. She considered that general deterrence and specific deterrence were the dominant considerations due to the severity of the offence of drug consumption, and the appellant's drug antecedents. The DJ applied a slight uplift of six months' imprisonment from the mandatory minimum sentence due to the appellant's three TIC drug consumption charges which was then adjusted down on account of the appellant's early plea of guilt. As a result, she imposed the mandatory minimum sentence (*DAC Decision* at [28]–[29]).

12 The DJ imposed a sentence of six months' imprisonment and the mandatory minimum sentence of six strokes of the cane for the CESOWA Charge. The DJ found that the Sentencing Information and Research Repository indicated that the usual tariff for an offence under s 7(1)(*a*) of the CESOWA was between six to nine months' imprisonment, and six strokes of the cane. This was in line with the Prosecution's submission that the starting sentence for an offence under s 7(1)(*a*) of the CESOWA was six months' imprisonment and the mandatory six strokes of the cane, according to the Practitioners' Library: Sentencing Practice in the Subordinate Courts (LexisNexis, 3rd Ed, 2013).

13 The DJ applied an uplift to the starting sentence of six months' imprisonment and six strokes of the cane based on the appellant's proclivity

towards the unauthorised possession of weapons, as seen from the two TIC charges under s 6 of the CESOWA, and a previous TIC Charge under s 7(1)(*a*) of the CESOWA in 2021. However, the DJ applied a discount to account for the accused's early plea of guilt which negated the uplift. The "starting point" sentence of six months' imprisonment and the mandatory six strokes of the cane was therefore imposed for the CESOWA Charge (*DAC Decision* at [31]–[32]).

14 The DJ sentenced the appellant to 12 months' imprisonment for the Possession Charge. In *Dinesh Singh Bhatia s/o Amarjeet Singh v Public Prosecutor* [2005] 3 SLR(R) 1 ("*Dinesh Singh*") at [38], the High Court found that the benchmark sentence for the consumption of Class A drugs was six months' imprisonment, for youthful offenders, and extended up to 18 months' imprisonment for first-time offenders. Considering the low quantity (1.58g of methamphetamine) of drugs, the drug antecedents, the appellant committing the Possession Charge offence while under investigation, and the appellant's early plea of guilt, the DJ imposed a sentence of 12 months' imprisonment for the Possession Charge (*DAC Decision* at [34]–[35]).

15 The DJ ordered all three sentences to run consecutively, as the LT1 Consumption Charge and CESOWA Charge involved separate and distinct legally protected interests. Further, the Possession Charge offence was committed five months later in a separate incident. The three Proceeded Charges were therefore unrelated offences which the appellant should be separately punished for (*DAC Decision* at [37]–[40]; following *Public Prosecutor v Raveen Balakrishnan* [2018] 5 SLR 799 ("*Raveen*")).

16 The DJ imposed an enhanced sentence of 430 days' imprisonment out of the maximum enhanced sentence of 432 days' imprisonment which the appellant was liable for under s 50T(1)(*a*) of the PA. The DJ applied the three-

stage framework for enhanced sentence (the "*Abdul Mutalib* Framework") set out in *Abdul Mutalib Bin Aziman v Public Prosecutor and other appeals* [2021] 4 SLR 1220 ("*Abdul Mutalib*").

17 The *Abdul Mutalib* Framework required the sentencing court to determine which of three sentencing bands should be used to determine the appropriate enhanced sentence, having regard to statutory factors set out in ss 50T(3)(*a*)–50T(3)(*d*) of the PA. These factors include: (a) factors going toward the gravity of the offence committed by the offender while on remission; (b) factors going towards the offender's rehabilitative prospects, such as whether the fresh offence is of a similar nature to the original offence and the length of time for which the person did not commit any offence after being released; and (c) all other relevant circumstances (*Abdul Mutalib* at [47] and [53]). The sentencing bands as set out in *Abdul Mutalib* at [47] were:

Table 3: Sentencing bands in *Abdul Mutalib* Framework

Band	Degree of severity	Sentencing range (based on the remaining duration of the remission order)
1	Low	Up to 1/3
2	Moderate	1/3 to 2/3
3	High	2/3 to the full remaining duration

18 In accordance with *Abdul Mutalib* at [78], the DJ determined the appropriate enhanced sentence in order of the most serious to the least serious of the Proceeded Charges. She imposed the following sentences below (*DAC Decision* at [42]–[46]).

(a) The LT1 Consumption Charge was found to be "moderate to high" in severity, considering the severity of the offence itself, the

appellant's repeated history of methamphetamine consumption, and his lack of commitment to rehabilitation. The DJ found that a sentence of about two-thirds of the remaining duration of the Remission Order of 432 days, *ie*, 290 days' imprisonment, was warranted.

(b) The CESOWA Charge was found to be at the "lower end of moderate" in severity as the offence was moderate in gravity. The appellant's rehabilitative prospects were assessed to be "low" given that a similar offence was taken into consideration in 2021. The DJ imposed a sentence of about one-third of the remaining duration of 432 days, *ie,* 144 days' imprisonment, for the CESOWA Charge.

(c) The Possession Charge was found to be at the "lower end of moderate" in severity, as it was of moderate gravity, committed while the appellant was under investigation, and indicated the appellant's lack of commitment to rehabilitation. The DJ concluded that a sentence at the lower end of the sentencing band, *ie*, one-third of 298 days, resulted in 99 days' imprisonment for the Possession Charge.

(d) Next, as the outer limit of the cumulative sentence was the remaining duration of the Remission Order as at the date of the earliest offence committed, which was 432 days, the DJ adjusted the enhanced sentences for the CESOWA Charge and Possession Charge to 70 days' imprisonment each, such that the final cumulative enhanced sentence imposed was 430 days' imprisonment.

19 The DJ took a "last look" at all the facts and circumstances and declined to make further adjustments for the totality principle. She finally ordered that the enhanced sentences would run consecutively to all other terms of imprisonment under s 50T(5) of the PA.

Parties' cases on appeal

Appellant's submissions

20 The appellant submitted that the DJ erred in law and/or on the facts in ordering the final global sentence, as she failed to afford sufficient consideration to the "One-Transaction, Totality, Aggregation and Escalation Principles", and thereby imposed a crushing sentence.

21 First, the appellant submitted that the DJ ought to have considered that the appellant was relatively young, diminishing the need for a deterrent sentence.

22 Second, the appellant submitted that the DJ failed to consider "all other relevant circumstances" under s 50T(3)(*d*) of the PA in determining the length of the enhanced sentence to be imposed. Specifically, the DJ failed to have regard to the fact that the enhanced sentences would not attract any remission order, and the fact that the appellant would have to serve the full enhanced sentence which must run consecutively. As 430 days' of imprisonment would be added to the sentence of five years' and 18 months' imprisonment, the appellant submitted that this would be manifestly excessive, and 370 days' imprisonment would have been more "condign".

23 Third, the appellant submitted that the DJ accorded too much weight to the principle of escalation to warrant a four to six months' uplift for the CESOWA Charge. The uplift was on the basis of the two TIC CESOWA charges. The appellant contends that applying a four to six months' uplift on account of the two TIC CESOWA charges would give the two TIC CESOWA charges similar weight to an actual conviction. Instead, an uplift of two months'

imprisonment should be applied to the CESOWA Charge, such that a sentence of two months' imprisonment and six strokes of the cane would be fair.

24 Fourth, applying the "One-Transaction and Totality Principles" in *Raveen*, the Possession Charge and Consumption Charge protected similar legal interests, such that a lighter sentence was warranted. The amount of methamphetamine was also "miniscule" and "only for [the appellant's] personal consumption", rather than for trafficking.

25 Fifth, the DJ failed to afford sufficient consideration to the fact that the LT1 Consumption Charge "attract[ed] a crushing mandatory minimum term" of five years' imprisonment. Bearing in mind the "Aggregation Principle" in *Raveen*, namely that the totality principle applied with greater force in cases that involved longer aggregate sentences, the principle should have warranted a substantial discount in sentence.

26 Sixth, the DJ placed too much weight on the aggravating factors, particularly that the Possession Charge offence had been committed while the appellant was out on bail.

27 The appellant did not argue that the sentences should run concurrently, did not dispute the DJ's application of the *Abdul Mutalib* Framework as the sentencing framework, and did not submit that the sentence imposed for the LT1 Consumption Charge, which was the mandatory minimum, was manifestly excessive.

Prosecution's submissions

28 The Prosecution submitted that the individual sentences and the enhanced sentence of 430 days' imprisonment were not manifestly excessive,

and that the aggregate sentence was proportionate to the appellant's overall criminality.

Issues before the court

29 The issues determined by this court were:

(a) Was the sentence for the CESOWA Charge manifestly excessive?

(b) Was the sentence for the Possession Charge manifestly excessive?

(c) Was the enhanced sentence under s 50T(1) of the PA manifestly excessive?

(d) Did the DJ err in law in failing to adequately consider the totality principle?

My decision

Applicable law for appellate intervention

30 As established in *Public Prosecutor v UI* [2008] 4 SLR(R) 500 ("*PP v UI*") at [12], an appellate court would not ordinarily disturb the sentence imposed by the trial court, unless it was satisfied that: (a) the trial judge erred with respect to the proper factual basis for sentencing; (b) the trial judge failed to appreciate the materials placed before him; (c) the sentence was wrong in principle; or (d) the sentence was manifestly excessive or manifestly inadequate, as the case may be.

31 A sentence is "manifestly excessive" or "manifestly inadequate" where the sentence is unjustly severe or lenient, and "requires substantial alterations rather than minute corrections to remedy the injustice" (*Public Prosecutor v Siew Boon Loong* [2005] 1 SLR(R) 611 at [22]).

32 The appellant bore the burden of showing that the individual sentences or global sentence were manifestly excessive. I considered whether the individual sentences for the CESOWA Charge, the Possession Charge or the enhanced imprisonment sentences were manifestly excessive in turn, before considering whether the totality principle had been adequately taken on board in assessing the final aggregate sentence imposed.

Issue 1: Was the sentence for the CESOWA Charge manifestly excessive?

33 The appellant did not establish any grounds for appellate intervention as regards the sentence for the CESOWA Charge.

34 I was not persuaded by the appellant's submission that his youth diminished the need for a deterrent sentence. While an offender under the age of 21 would enjoy the benefit of a presumption that the primary sentencing consideration would be rehabilitation (*A Karthik v Public Prosecutor* [2018] 5 SLR 1289 ("*A Karthik*") at [33]), the appellant was 24 years old when he committed the LT1 Consumption and CESOWA offences. When sentencing adult offenders, rehabilitation would only be regarded as the operative consideration where the particular offender "demonstrates an extremely strong propensity for reform and/or there are exceptional circumstances warranting the grant of probation" [emphasis in original omitted] (*A Karthik* at [34]). The appellant had shown neither a strong propensity for reform nor exceptional circumstances, and relative youth was not, in itself, a factor preventing deterrence from being a relevant sentencing consideration.

35 I did not find that the DJ placed any weight on the principle of escalation in sentencing the appellant for the CESOWA Charge. There was no mention of the principle in the *DAC Decision* at [30]–[32], or the Notes of Evidence. In *Public Prosecutor v Low Ji Qing* [2019] 5 SLR 769 at [58] and [61], Menon CJ held that the principle of escalation was invoked to *cumulatively* increase sentences, and came into play where the punishments meted out might escalate in severity or where the accused person's antecedents display an escalating pattern of offending. In considering the two current TIC CESOWA charges and one prior TIC CESOWA charge at [32] of the *DAC Decision*, the DJ was applying the principle of specific deterrence and not the principle of escalation.

36 In any case, the sentence of six months' imprisonment and six strokes of the cane was not manifestly excessive. In *Public Prosecutor v Ahirrudin Al-Had bin Haji Arrifin* [2022] 5 SLR 407 at [99], the Court said that "[t]he established sentencing tariff for the offence under s 7(1)(*a*) of the CESOWA is a sentence in excess of six months' imprisonment". As the DJ noted, this usual sentencing tariff was consistent with the information in the Sentencing Information and Research Repository (*DAC Decision* at [31]). An uplift from the established sentencing tariff of six months' imprisonment was justified by the two similar TIC charges under s 6(1) of the CESOWA for carrying a push dagger and a knife in a public place.

37 The appellant conceded that an uplift of two months' imprisonment for the CESOWA Charge "would be condign". Applying an uplift of two months' imprisonment to the established starting point of six months' imprisonment, the resulting sentence would be eight months' imprisonment. Applying a 30% discount for the appellant's early plea of guilt (same percentage applied by the DJ), the appropriate sentence (even on the appellant's case) would be 5.6 months' imprisonment, and the mandatory six strokes of the cane. As such, there

was no ground to argue that a sentence of six months' imprisonment and six strokes of the cane for the CESOWA Charge was manifestly excessive.

Issue 2: Was the sentence for the Possession Charge ordered by the DJ manifestly excessive?

38 For the possession of 1.58g of methamphetamine, which is an offence under s 8(*a*) of the MDA and punishable under s 33(1) of the MDA, read with the Second Schedule of the MDA, the appellant was liable on conviction to a maximum sentence of ten years' imprisonment, or a fine of up to $20,000, or both. In my view, the sentence of 12 months' imprisonment for the Possession Charge was not manifestly excessive.

39 The appellant submitted that the DJ failed to accord sufficient consideration to the fact that there were "similar overarching legal interest[s]" between the LT1 Consumption Charge and Possession Charge, which warranted a lighter sentence in light of the one-transaction and totality principles. I was not persuaded by this argument as the offences of drug possession and consumption did *not* protect the same legal interest. The Court of Appeal held in *Yuen Ye Ming v Public Prosecutor* [2020] 2 SLR 970 at [20] that s 8 of the MDA "criminalises the acts of possession and consumption of controlled drugs as two distinct offences … concerned with protecting different legal interests. It follows that possession and consumption offences can carry separate punishments and the imprisonment sentences imposed may run consecutively". Furthermore, the one-transaction rule was also inapplicable as the LT1 Consumption Charge and Possession Charge were committed five months apart and were clearly separate and distinct offences which were not committed as part of a single transaction. It was therefore clear that separate interests had been engaged, warranting separate punishment, and no reduction in sentence was warranted on this ground.

40 The appellant argued that the amount of methamphetamine was "miniscule". However, the DJ had already taken into account the fact that the quantity of methamphetamine was "low" in reaching her decision on sentence (*DAC Decision* at [35]).

41 The appellant's submission that the methamphetamine was only for the appellant's "personal consumption" and not for trafficking was also a neutral factor, as the absence of an aggravating factor was not a mitigating factor (*BPH v Public Prosecutor and another appeal* [2019] 2 SLR 764 at [85]).

42 The appellant submitted that the DJ had placed too much weight on the aggravating factors submitted by the Prosecution in particular, that the Possession Charge offence was committed while the appellant was "on bail". However, the appellant did not explain in what way the DJ had placed too much weight on this aggravating factor. In any case, the sentencing judge's exercise of discretion is afforded a certain degree of deference given that sentencing is a highly discretionary exercise (*PP v UI* at [13]).

43 I was of the view that the sentence for the Possession Charge was not manifestly excessive. The DJ came to the final sentence of 12 months' imprisonment after applying the benchmark range set out in *Dinesh Singh* at [38]. The appellant's sentence was also consistent with *Public Prosecutor v Muhammad Erman Bin Imam Tauhid* [2022] SGDC 102, in which a 28-year-old male offender was sentenced to ten months' imprisonment for the possession of 0.41g of methamphetamine. It could not therefore be said that the sentence was manifestly excessive.

Issue 3: Was the enhanced sentence under s 50T(1) of the PA manifestly excessive?

44 For breaching the basic condition of the Remission Order under s 50S(1) of the PA, the appellant was liable to imprisonment for a term not exceeding the remaining duration of the Remission Order as of the date of the commission of each of the offences, *ie*, 432 days for the LT1 Consumption Charge and CESOWA Charge, and 298 days for the Possession Charge. Under s 50T(2)(*b*) of the PA, the aggregate length of all the enhanced sentences imposed must not exceed 432 days' imprisonment.

45 The DJ's decisions on the enhanced sentences were supported on the facts and the law, as elaborated on at [16]–[19] above. The DJ's sentences as compared with the appellant's submissions on enhanced sentences are set out in the table below.

Table 4: Comparison of DJ's vs appellant's sentencing positions on enhanced sentences

Charge	DJ's findings on band	DJ's sentence	Appellant's submissions
LT1 Consumption Charge	Higher end of "moderate" Band 2	2/3 of 432 days ≈ 290 days	250 days
CESOWA Charge	Lower end of "moderate" Band 2	1/3 of 432 days = 144 days → adjusted to 70 days for totality	60 days
Possession Charge	Lower end of "moderate" Band 2	1/3 of 298 days ≈ 99 days → adjusted to 70 days for totality	60 days
		Total: 430 days	Total: 370 days

46 The only ground on which the appellant argued that the enhanced sentence of 430 days' imprisonment should be reduced was that the DJ did not adequately consider all other relevant circumstances under s 50T(3)(*d*) in determining the appropriate enhanced sentences on the Proceeded Charges.

47 The appellant submitted that the DJ failed to afford any consideration to the fact that under s 50T(5) of the PA, the enhanced sentences would not attract any remission order, and would have to run consecutively, resulting in a period of one years' and 65 days' imprisonment under the enhanced sentence.

The law on remission of imprisonment terms for ordinary and enhanced sentences

48 Sections 50G and 50H of the PA provide that prisoners are entitled to have their sentences remitted where: (a) they are serving an aggregate imprisonment term of more than 14 days; (b) where their sentence is *not* a default sentence or a sentence of life imprisonment; and (c) where their sentence does *not* consist wholly of enhanced sentences under s 50T(1)(*a*) or terms of imprisonment imposed under s 50Y(1) of the PA or any combination thereof. The effect of a remission order on an ordinary imprisonment term is that the offender is released on the day after he has reached the two-third mark of his imprisonment sentence (*Sim Yeow Kee v Public Prosecutor and another appeal* [2016] 5 SLR 936 at [16(c)], [44]).

49 Enhanced sentences imposed under s 50T(1) of the PA have two unique features when interacting with the remission regime. First, under s 50T(5) of the PA, a term of imprisonment imposed as an enhanced sentence must run consecutively to all other terms of imprisonment imposed on the person. Second, under ss 50I(*b*)(i) and 50I(*b*)(ii) of the PA, the Commissioner must make a remission order on the day after the day where the prisoner has served

the aggregate of all the terms of imprisonment to which was prisoner was sentenced as enhanced sentences under s 50T(1)(*a*) and two-thirds of all the other consecutive terms of imprisonment to which the prisoner was sentenced, or the day after 14 days of the prisoner's sentence, whichever ends later.

50 The appellant submitted that the DJ failed to adequately consider that the "enhanced sentences would not attract any remission order" and the fact that the enhanced sentences would run consecutively. He argued that an enhanced sentence of 430 days' imprisonment was manifestly excessive on those grounds.

51 It should be noted that the appellant was entitled to have a remission order made, subject to his good conduct while serving his sentence under s 50I(2) of the PA. In this case, as the final aggregate sentence consisted of both sentences imposed for the Proceeded Charges, and enhanced sentences under s 50T(1)(*a*) of the PA, the appellant was entitled under s 50(I)(*b*)(i) of the PA to have a remission order made the day after the aggregate of the enhanced sentences and two-thirds of the sentences for the Proceeded Charges were served. As the aggregate of the sentences imposed on the appellant for the Proceeded Charges and the enhanced sentences was longer than 14 days, the alternative under s 50I(*b*)(ii) of the PA did not apply. The material question therefore was whether the two unique features of enhanced sentences, as set out at [49] above, warranted a discount in sentencing. I answered this in the negative. To do so would detract from the very purpose of the enhanced sentencing regime and the provisions of s 50I(*b*)(i) of the PA.

The imposition of enhanced sentences did not warrant discounts in sentencing

52 In my view, the fact that enhanced sentences were not liable to be remitted and must run consecutively did not warrant any discount in sentencing. The very purpose of the enhanced sentence regime was to "forfeit" the incentive

of early release from a prior term of incarceration that an offender had enjoyed due to his good conduct and behaviour in prison (*Abdul Mutalib* at [75]). The parliamentary intention behind s 50T of the PA was to deter ex-inmates from reoffending during remission, by subjecting the re-offender to a longer enhanced sentence if the offender reoffends soon after his release (*Muhammad Isa bin Ahmad v Public Prosecutor* [2024] 3 SLR 1359 at [23]–[24]). The fact that enhanced sentences were not subject to remission was therefore a deliberate feature of the remission regime.

53 Furthermore, given that the cumulative enhanced sentences imposed could not exceed the remaining duration of the remission order at the time of the appellant's earliest offence, any risk of the cumulative sentence being disproportionate, by reason of the fact that the enhanced sentences had to run consecutive to all other terms of imprisonment, was minimised (*Abdul Mutalib* at [84]). Therefore, no reduction in sentence was warranted on this ground.

Issue 4: Did the DJ err in law in failing to adequately consider the totality principle?

54 The appellant submitted that the aggregation principle, which provided that "the totality principle ordinarily applies with greater force in cases that involve longer aggregate sentences" (*Raveen* at [98(c)]), applied as the LT1 Consumption Charge "attract[ed] a crushing mandatory minimum term of 5 years' imprisonment". The totality principle should have applied with greater force to warrant a "substantial discount in sentence".

55 However, it was evident that the sentences imposed by the DJ and the sentences sought by the appellant on appeal were not substantially different.

Table 5: Comparison of DJ's vs appellant's sentencing positions on Proceeded Charges

Charge	DJ's sentence	Appellant's sentencing position (on appeal)
LT1 Consumption Charge	Five years' imprisonment and three strokes of the cane Enhanced sentence of 290 days' imprisonment	Five years' imprisonment and three strokes of the cane Enhanced sentence of 250 days' imprisonment
CESOWA Charge	Six months' imprisonment and six strokes of the cane Enhanced sentence of 70 days' imprisonment	Two months' imprisonment and six strokes of the cane Enhanced sentence of 60 days' imprisonment
Possession Charge	12 months' imprisonment Enhanced sentence of 70 days' imprisonment	Eight months' imprisonment Enhanced sentence of 60 days' imprisonment
Global sentence	Five years' and 18 months' imprisonment and nine strokes of the cane Enhanced sentence of 430 days' imprisonment	Five years and ten months' imprisonment and nine strokes of the cane Enhanced sentence of 370 days' imprisonment
	Total: Seven years' and six months' and 65 days' imprisonment and nine strokes of the cane	Total: Six years' and ten months' and five days' imprisonment and nine strokes of the cane

56 Between the global sentence sought by the appellant and the aggregate sentence imposed by the DJ, there was a difference of less than ten months' imprisonment, which could hardly be suggested as crushing, or to be a substantial alteration, in the context of the total aggregate sentence of around seven years' and eight months' imprisonment imposed.

57 Although I had my doubts that the sentence of approximately seven years' and eight months' imprisonment even constituted a "longer aggregate sentence" for the purposes of engaging the aggregation principle, my view was that the aggregate sentence did not offend the totality principle, even if it was applied with greater force. The aggregate sentence did not offend either limb of the totality principle, as explained in *Raveen* at [98(c)].

58 First, the aggregate sentence was not substantially above the normal level of sentences for the most serious of the individual offences committed, given that the most serious LT1 Consumption Charge carried a mandatory minimum of five years' imprisonment and three strokes of the cane. The Sentencing Information and Research Repository for offences punished under s 33A(1) of the MDA from 2001 to 2024 indicated that most sentences for similar offences were imprisonment terms ranging between four to six years. The aggregate sentence was therefore not substantially above the normal level of sentences for the LT1 Consumption Charge.

59 Second, in my view, the aggregate sentence imposed on the appellant could not be said to be crushing or not in keeping with his past record and future prospects. This was the third time that the appellant had been charged and convicted, and he had a history of drug-related offences and offences related to causing hurt. Without counting for remission, the appellant will be in his early thirties when he is released, and will have ample time to turn his life around. It was therefore unlikely that the aggregate sentence would "induce any such sense of hopelessness that would negate the offender's rehabilitative prospects", which was the concern elucidated in *Raveen* at [79]. My view was therefore that the final aggregate sentence imposed by the DJ was proportionate and did not offend the totality principle.

Conclusion

60 For these reasons, I dismissed the appellant's appeal against sentence and affirmed the DJ's decision on sentence. As a final point, I note that the appellant has a long life ahead of him, and it is my hope that he will take every opportunity to improve himself and leave behind this unfortunate cycle of crime, both for himself and for his family.

Kannan Ramesh
Judge of the Appellate Division

Wee Hong Shern (Huang Hongsheng) (Ong & Co LLC) for the appellant;
Colin Ng Guan Wen and Tung Shou Pin (Attorney-General's Chambers) for the respondent.