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Revised

IN THE DISTRICT COURT  
OF NEW SOUTH WALES  
CRIMINAL JURISDICTION

JUDGE SWEENEY

FRIDAY 5 JULY 2013

**2010/00268031 - R v Chee Mei WONG****SENTENCE**

HER HONOUR: On 27 March 2013, Chee Mei Wong was found guilty by a jury of the following offences:

- One count of conducting a business that involved the sexual servitude of others, count 1 on the indictment, contrary to s 270.6 subs (2) of the Criminal Code, with a maximum penalty of 15 years imprisonment.
- Four counts of allowing a person to work in breach of her visa conditions, and knowing the worker was being exploited, counts 2 to 5, contrary to s 245AC(2) of the **Migration Act**, each with a maximum penalty of five years imprisonment.
- Two counts of allowing a person to work in breach of her visa conditions, counts 6 and 7, contrary to s 245AC(1) of the **Migration Act**, with a maximum penalty of two years imprisonment.

After the trial of those charges on 16 April 2013, Ms Wong pleaded guilty in this court to one count of supplying the prohibited drug 3,4-MDMA, which offence has a maximum penalty of 15 years imprisonment. Ms Wong has also asked that when sentencing her for that offence I take into account an offence on a Form 1 of possessing the prohibited drug cannabis.

In respect of the trial charges, I make the following findings of fact consistent with the jury's verdicts. There is significant overlap in the facts

complainants.

Ms Wong took part in the management of, and exercised control and direction over, a brothel called Diamonds at Crows Nest and another brothel called Darlings at Drummoyne, at which some of the complainants were sometimes directed to work. The evidence of the complainants and intercepted phone calls showed that Ms Wong exercised significant control in the business of Diamonds and over the complainants, being involved to a high degree in organising for them to be sent to Australia, directing their accommodation, being involved in organising their educational courses, directing and controlling the work of the complainants, and directing other workers in the brothel and the owner [REDACTED] [REDACTED]

She spoke with agents in Malaysia, who organised for the complainants to come to Australia, and to an education agent to organise the appearance of the attendance of the complainants at educational courses. The complainants regarded Ms Wong as the "boss" at the brothel, and the evidence in the intercepted telephone calls demonstrated that that was her effective role, even though she was not the owner of the brothel or lessee of the premises.

Although Ms Wong participated in running the brothel business for the period specified in count 1, between 24 August 2008 and 13 August 2010, the time during which complainants were subject to sexual servitude, or exploited, or made to work in breach of and excess of their visa conditions, was shorter, dating altogether from August 2008 to 2 March 2009.

There were many common features in the experiences of the complainants. Each came to Australia on a student visa with a condition to not work more than 20 hours per week and not to work before her course commenced. They all knew they were to work in a brothel and had done so in Malaysia.

K [REDACTED] M [REDACTED], who is relevant to counts 1 and 2, arrived in Australia on 24 August 2008. She went to a flat in Ultimo to which she had been directed, where sex workers at Diamonds stayed. Ms Wong came to the flat and asked her to start work the next day. She took the "show money" which Ms M [REDACTED] had been given in Malaysia to show Australian Immigration officials if required to do so. When she began work at Diamonds, she was told she must perform oral sex on customers without a condom and alternating tea and ice cubes in her mouth. Despite her protests to Ms Wong that she could not perform that service, she was told that her debt for the arrangements for her to come to Australia was \$5,300 and that she must repay her debt and do what she was told.

Ms Wong told Ms M [REDACTED] she could not work anywhere else until she paid off her debt. While Ms M [REDACTED] was paying off her debt, each week Ms Wong gave her an envelope on which was written by how much her debt had been reduced that week by her working in the brothel, and how much of her debt remained. The envelope contained no money. To buy food Ms M [REDACTED] had to borrow money from Ms Wong, which was added to her debt. Ms Wong told Ms M [REDACTED] to stop attending college because there was work to be done. She said she would have Ms M [REDACTED] attendance recorded at the college.

On one occasion when a drunk client treated her roughly and she

screamed out, Ms Wong told Ms M [REDACTED] she was losing customers because of her and she would not pay her for that client. She told her to consider her position and threatened her with deportation if she did not work as required. On other occasions, Ms Wong told Ms M [REDACTED] that customers had complained and she withheld payment. Ms M [REDACTED] could only leave Diamonds during working hours to buy meals with Ms Wong's permission. She worked from 12 noon until 3am, or 5am or 6am the following morning. She was not free to choose her working hours. Ms Wong told Ms M [REDACTED] that if Immigration officials came to the brothel, she should deny knowledge of Ms Wong, say that she worked less than 20 hours a week and was on a student visa. She was threatened with physical harm and deportation if she made a mistake with Immigration officials.

In October 2008 when Ms M [REDACTED] had a client who just wanted to talk, Ms Wong demanded Ms M [REDACTED] passport and air ticket and told her she was being sent to Malaysia the next day. Ms M [REDACTED] was owed \$2,300 in salary. She negotiated with Ms Wong that she would hand over her ticket in return for \$1,000 of her outstanding wages, and she would be paid the balance at the airport or in Malaysia. Ms M [REDACTED] surrendered her ticket then went to Melbourne with another complainant, G [REDACTED] P [REDACTED]. Her debt had been repaid. After she left Diamonds she received text messages from Ms Wong threatening to send A [REDACTED], a Malaysian agent with whom Ms Wong dealt, to her home and that she would tell about her. The complainants feared their families in Malaysia finding out the nature of the work they were doing.

U [REDACTED] R [REDACTED], who is relevant to counts 1 and 3, came to Australia on 25 September 2008, and went to the flat in Ultimo to which she had been directed. She went to Diamonds where Ms Wong introduced herself

as "the boss" and took the remaining show money Ms R [REDACTED] had. Ms Wong told Ms R [REDACTED] her debt was \$5,800 for her school fees, air ticket and \$500 of the show money she had used. In addition, she had to pay for her accommodation and transport to and from the brothel. Initially Ms R [REDACTED] had to sleep on a couch at Diamonds, although she still paid rent because there was no room for her at the accommodation where the sex workers stayed under Ms Wong's direction. Because she did not have a key to Diamonds, Ms R [REDACTED] could not leave the building while she was staying there.

Ms Wong told Ms R [REDACTED] she could not work anywhere else for six months, and if she wanted to she had to settle her debt, return to Malaysia and then come back to Australia. Ms Wong said if Ms R [REDACTED] worked somewhere else without her knowledge she would find her and "do something to her".

Ms Wong told Ms R [REDACTED] that on her student visa she could only work for 20 hours and if Immigration officials asked she was to tell them she was only working 20 hours because if Immigration officials found she worked more than 20 hours per week they would deport her to Malaysia and deport all the women working at the brothel. Ms R [REDACTED] worked at Diamonds for about five weeks without a day off, from 10 or 11am until 3am or 5am the next day. She could not choose her working hours. Until she cleared her debt, Ms R [REDACTED] was given an envelope each week on which was written how much she had earned that week and how much of her debt was owing. The envelope did not contain money.

Ms Wong told Ms R [REDACTED] that if she went back to Malaysia or was sent back without paying her debt A [REDACTED] would cause problems for her and her

family. When Ms R [REDACTED] began working at the brothel Ms Wong told her that she had to perform oral sex on customers without a condom and using ice cubes and tea in her mouth. When Ms R [REDACTED] said she could not do those things Ms Wong said if she did not she would be sent back to Malaysia and would have to settle her debt first. Ms R [REDACTED] could see no other option but to work and pay the debt. When a customer complained about Ms R [REDACTED] not using ice and tea Ms Wong told her if she would not do the job properly she would be replaced. Ms R [REDACTED] felt she had to do what Ms Wong told her to do because she had to settle her debt.

Once when Ms R [REDACTED] resisted performing oral sex without a condom on a man with blisters on his penis Ms Wong told her she had to. When the customer complained Ms Wong threatened her with deportation. Ms R [REDACTED] feared that if she was sent back to Malaysia she may be arrested for having done the sex work.

G [REDACTED] P [REDACTED] who featured in counts 1 and 4, arrived in Australia on 21 September 2008 with a phone number she had been given for Ms Wong. She called Ms Wong who directed her to go to the Ultimo flat. Later that night she was called to a Chinese restaurant where working girls from Diamonds were eating and there she met Ms Wong. She moved into a flat in Chalmers Street, Surry Hills which was another flat where workers from Diamonds stayed at the direction of Ms Wong. When she commenced work at Diamonds Ms Wong told her she had to perform oral sex on customers without a condom and with ice and Chinese tea. Ms P [REDACTED] protested and Ms Wong threatened her with deportation to Malaysia if she did not do it. Ms P [REDACTED] said she did what she was told because she wanted to pay off her debt and send money home to assist her family and because of the threat of

deportation.

Ms Wong told Ms P [REDACTED] that she could not leave Diamonds during working hours without her permission and only for short times. She told her if she went out without her permission she would be fined. Each week Ms Wong gave Ms P [REDACTED] envelopes with the amount of her debt plus expenses including rent and transport. To buy food Ms P [REDACTED] had to borrow money from Ms Wong. Ms P [REDACTED] worked from 12 noon until 3am. She went to school two days in total. Ms Wong told her the hours she should tell Immigration officials she worked, if asked.

Ms Wong told Ms P [REDACTED] if she tried to work somewhere else she would cancel her visa and send her back to Malaysia. In her first month at Diamonds Ms P [REDACTED] had her period twice because of a medical problem. Ms Wong was angry and slapped her face. She demanded Ms P [REDACTED] air ticket. Ms P [REDACTED] ran away to Melbourne with Ms M [REDACTED]. Her debt was not fully repaid. Ms Wong sent her a text message threatening her family if she did not return to Diamonds. Ms P [REDACTED] made arrangements with K [REDACTED] L [REDACTED] to pay her outstanding debt.

S [REDACTED] A [REDACTED] who was relevant to counts 1 and 5, arrived in Australia on 26 December 2008 and went to the apartment in Ultimo to which she had been directed. The next day Ms Wong came to the flat. She lifted Ms A [REDACTED] shirt and inspected her body. That evening Ms A [REDACTED] was collected and driven to Diamonds. Ms Wong provided her with a dress of the type the sex workers wore at Diamonds. She explained to her how to service customers using ice cubes and tea in her mouth and without a condom. Ms A [REDACTED] thought she had no option. Ms Wong told her that if she left without paying her debt or ran away she would cancel her visa and

return ticket, send her back to Malaysia and she would not be able to come to Australia. She was not free to choose her working hours or refuse customers. Ms Wong told Ms A [REDACTED] to take medication to stop her menstrual period so she could work. Ms Wong gave Ms A [REDACTED] envelopes each week showing the amount of her debt, expenses and the money she had earned, which was offset against her debt. Ms A [REDACTED] worked from 11am or noon until 4am and once a week 5am.

In February 2009 when Ms A [REDACTED] was experiencing genital pain she went to see a doctor with Ms Wong's permission, but Ms Wong asked her how she could pay off her debt if she took days off. Ms Wong told Ms A [REDACTED] she would tell her when she could go to college. She told her to tell Immigration she was studying tourism and working only 20 hours per week. After her debt was repaid Ms A [REDACTED] left Diamonds and the Ultimo flat without telling Ms Wong.

The complainants in counts 6 and 7 S [REDACTED] H [REDACTED] B [REDACTED] A [REDACTED] R [REDACTED] and M [REDACTED] S [REDACTED] worked at Diamonds under the same conditions as the other complainants but there was no allegation of sexual servitude or exploitation in respect of them.

Ms A [REDACTED] R [REDACTED] worked from noon until 3am or 5 to 6am on weekends. In her first three weeks at Diamonds she worked seven days a week. Ms Wong told her to attend college to have her attendance recorded and then to go back to work. She told her to tell Immigration officials that she worked less than 20 hours and went to school every day.

Ms S [REDACTED] worked from 11am until 4am. She also worked at Darlings. Ms Wong told her the number of working hours she should tell Immigration officials.



Ms Wong was in contact with Malaysia agents who organised for the complainants to come to Australia and was aware of their arrival. She knew the conditions of the student visas held by all the complainants and she directed them to work in excess of the 20 hours per week permitted, to not attend the educational courses they were enrolled in, and coached them to lie to Immigration officials about their working hours and study. She received a commission from the education agent who organised the complainants' enrolment in courses. She either directly, or using Diamonds employees, manipulated attendance records of the complainants at some educational institutions and sometimes met with staff at colleges.

She managed the repayment of the debt the four complainants in counts 2 to 5 had incurred for the cost of their airfares, visa fees and educational courses, which compelled the complainants to work at Diamonds until their debt was repaid.

She oversaw the accommodation of the complainants in accommodation leased or owned by her business partner, [REDACTED], or members of his family. In telephone conversations she referred to them as dormitories. There the complainants lived in crowded conditions, sleeping on mattresses on floors or in double bunks, four bunks to a room, paying rent disproportionate to the accommodation which had no space for clothes or personal belongings. This was another aspect of the dehumanising treatment of the complainants by Ms Wong.

She directed the working hours of the complainants and they were not allowed to leave the brothel during working hours except with Ms Wong's permission and only for short periods of time. The complainants were dressed in transparent clothing and identified by a numbered tag. They were directed

to regulate their menstrual periods by medication and generally were required to work during illness. They were forced by threat of deportation to engage in sexual acts they did not wish to perform, and unprotected sex. They could not refuse clients. They were threatened with unspecified harm to themselves or their family if they left Diamonds before their debt was repaid.

The complainants in counts 1 to 5, Ms M [REDACTED] Ms R [REDACTED], Ms A [REDACTED] and Ms P [REDACTED] all provided Victim Impact Statements, each of which I have read. They all felt isolated in Australia, away from their families, and not having a command of English. They suffered lack of sleep from their long working hours, fear of contracting disease from engaging in unprotected sex, gynaecological and other health symptoms, and emotional stress. They felt variously humiliated and lost self esteem.

It is apparent that the conditions in which they were made to work by Ms Wong caused them physical and emotional harm. I do not take into account the distress experienced by the victims as a result of the trial process as it is not permitted by law.

Although the amount of the debt owed by each of the complainants of \$5,000 to \$6,000 was less than the debt in some other known cases, for example, **Seiders and Somsri v R** [2008] NSWCCA 187, it was still a lot of money for the complainants. They had each been forced into sex work in Malaysia because of the need to support families or themselves and for a lack of other options. When they arranged to come to Australia they were not wealthy. The significance of the debt is that it compelled them to work for Ms Wong and deprive them of their freedom to choose because they had to work to pay off the debt to Ms Wong under threat of deportation or harm to themselves or their family if they did not pay their debt in full.

Although Ms Wong collected the debts from the complainants by withholding their wages until their debts were repaid and although she discussed money with the Malaysian agents A [REDACTED] and J [REDACTED] in telephone conversations, it is unclear to what extent Ms Wong profited from the servitude of the four complainants and from the other two complainants working in excess of the hours permitted by their student visa.

However it is clear from the evidence that Ms Wong had a primary role in the conduct of the business, discussing with the Malaysian agents the arrival of the women workers, meeting the complainants on their arrival, directing them to work, including during their periods and illness, directing an employee K [REDACTED] to arrange bedding in the "dormitories" so she could squeeze more women into the accommodation, participating with the education agency organising enrolment of the workers in courses and managing or contriving their attendance to an extent at colleges.

The work the complainants had to perform under threat of deportation or of harm from Ms Wong was demeaning, including being paraded in front of potential customers wearing numbers for identification. Their lives, apart from working in the brothel, were limited because of their long working hours each day, and because they had to borrow money to buy food until they paid their debts, because they received no income until then.

The conditions under which the complainants worked, being forced to have sex with people they did not wish to have sex with, being forced to engage in unprotected sex at risk of contacting infections and being forced to perform sexual acts they did not wish to perform and which they found repellent, and the conditions in which they were made to live in crowded flats and having to borrow money for food meant Ms Wong treated them not as

human beings but as commodities, as machines to make money. Any complaints they made about their work or their health were rebuffed by Ms Wong with threats.

The period of time in which each complainant worked under those conditions until her debt was paid being weeks or at most two months may seem on one view to not be long but when it involved those working conditions it must have seemed a long time to the complainants who endured it.

That two of them ran away from Diamonds, one before she had repaid her debt, is an indication of how heavily their conditions weighed on them. All of those factors combine to make the offences involving sexual servitude and exploitation of the four complaints in counts 1 to 5 of high seriousness.

In sentencing for offences against Commonwealth law general deterrence must be taken into account. When enacting the laws to prohibit sexual servitude the Parliament noted that poor, unemployed women from South-East Asia were potential victims of sexual exploitation in a trade which "drastically undermines basic human rights". To reflect the community's concern underlying the offence provisions and because the offences have those characteristics the sentences for those offences involving servitude and exploitation must reflect a significant component of general deterrence.

The offences against the **Migration Act** of allowing workers to work in breach of visa conditions are of concern to the Parliament and the community because illegal workers take job opportunities away from Australian citizens and lawful migrants. Parliament noted the prevalence of illegal workers in the sex industry.

The offences in counts 6 and 7 are serious instances of breach of visa conditions because the workers were *required* to work about 20 hours a day

and not simply allowed, but required, to work those hours in breach of the condition permitting no more than 20 hours work per week, and they were prevented from attending their educational courses both expressly and practically because of the hours they were required to work.

The supply drug offence proceeded by way of agreed facts. When the police arrested Ms Wong for the sexual servitude charge they searched the unit where she was living. They located some MDMA in a jar which had Ms Wong's fingerprints on it and some cannabis wrapped in paper which also had Ms Wong's fingerprints on it. The cannabis is the matter on the Form 1. It weighed 10.5 grams. The MDMA weighed 3.1 grams. The trafficable quantity prescribed for MDMA is 0.75 of a gram, so this quantity was four times that.

The Crown conceded there was no evidence of Ms Wong having a commercial purpose or financial gain as the reason for her possession of the drug. On that basis I assess the objective seriousness of the offence as low. A plea of guilty to this offence was entered in this court at arraignment, although a trial date had not been fixed. For the utilitarian value of the plea at that time I have discounted the sentence by 12 ½ %.

Ms Wong is 39 years old, born in Malaysia. She has no prior convictions. She did not give evidence in the sentence proceedings so the information about her personal circumstances came from third party sources. From conflicting information given by Ms Wong in different reports and sources and having seen her recorded interview with police in which she told lies, during the trial, I do not regard Ms Wong as a reliable historian. She said she came to Australia in 2004 on a student visa. She is now said to be a permanent resident. She has said she has three sons, aged 22, 14 and 12, all living with grandparents in Malaysia, although in her migration application made to the

Australian Immigration Department in 2005 she made no mention of any children in response to questions asked about children. However no claim of exceptional hardship in the Edwards sense, (**R v Edwards** (1996) 90 A Crim R 510) above the usual hardship which families experience when the breadwinner is imprisoned, was made in respect of the children so I do not need to resolve that dispute.

There was evidence in the trial of a phone conversation purportedly between Ms Wong and her adult son. Ms Wong's counsel said from the bar table, without any supporting evidence, that Ms Wong supports her children financially and visits them once a year. If that is so then Ms Wong's children will suffer some material and emotional deprivation while she is serving her sentence but no exceptional hardship has been claimed or demonstrated. The children will remain living with their grandparents with whom they have lived, on Ms Wong's account, since 2004 when she came to Australia.

Dr E [REDACTED], psychiatrist, reported that since her arrest in August 2010 Ms Wong has suffered from moderate to severe depression treated by medication which has been partially successful. Dr S [REDACTED] attributed Ms Wong's depression to her reaction to the court proceedings and anxiety about incarceration. The illness postdates the offences and therefore did not have an impact on Ms Wong's offending behaviour.

Dr [REDACTED] expressed the opinion that a custodial sentence will negatively impact on her depression. I accept that that will be so. A court may only impose a custodial sentence for Commonwealth or State offences if no other sentence is appropriate in all the circumstances. Given the seriousness of Ms Wong's offences as I have assessed them, any sentence less than imprisonment would be inadequate and inappropriate. An Intensive

Corrections Order, which Ms Wong's counsel sought I impose would be inappropriate for the circumstances of these offences and this offender.

Ms Wong's counsel asserted from the bar table that she was remorseful but there was no evidence to that effect. Ms Wong gave no evidence, nor was there any record of her expressing remorse to Dr [REDACTED] or the probation officer who prepared a pre-sentence report in respect of the drug supply charge.

The Crown submitted that concurrent sentences were appropriate for count 1 and the **Migration Act** offences in counts 2 to 5 because the latter provide the foundation for count 1. Indeed "exploitation" in counts 2 to 5 has the same legal meaning as "sexual servitude" in count 1. There are some other elements of counts 2 to 5 which are not common to count 1 but the gravamen of those offences was the exploitation of the women working in a brothel, just as the sexual servitude of those women is the gravamen of count 1.

The offences have different maximum penalties. There is a need to avoid double punishment where the offences arise out of essentially the same conduct.

Although the jury were directed that they could find count 1 proved if they found only one complainant to be the subject of sexual servitude in the brothel Diamonds, because the jury found the accused guilty of counts 2 to 5 involving the exploitation of four complainants I have proceeded on the basis that all four of those complainants were the subject of sexual servitude for count 1, given that "exploitation" means "in the condition of sexual servitude" and the jury were so directed.

Counts 6 and 7 did not involve allegations of exploitation, but requiring the two complainants in those counts to work beyond the 20 hours per week

permitted by their visa conditions was part of the business of the brothel, so there is factual overlap between those counts and count 1, and again the need to avoid double punishment.

The Crown Prosecutor appearing in the drug supply charge conceded that the sentence for that offence could be wholly or substantially subsumed in the sentence for the Commonwealth offences.

Taking all those matters into account I sentence you as follows Ms Wong. For count 1, six years imprisonment to date from today 5 July 2013. For each of counts 2 to 5 two years imprisonment commencing today, 5 July 2013. For each of counts 6 and 7, one year's imprisonment commencing today 5 July 2013. For those sentences I fix a single non parole period of three years imprisonment commencing today, 5 July 2013 and expiring on 4 July 2016.

For the offence of supplying a drug and taking into account the matter on the Form 1 I sentence you to a fixed term of eight months imprisonment, equivalent to the non parole period I would have fixed. It will commence on 5 July 2013 and expire on 4 March 2014.

Is there anything anyone wants to raise?

DAVENPORT COMMONWEALTH CROWN: I'm just concerned why your Honour hasn't backdated it to the day she went into custody that's all.

HER HONOUR: I'm sorry you are right.

Each of the sentences will date from 31 May 2013 so that means that the non parole period for the Commonwealth offences will expire on 30 May 2016 and the fixed term for the drug supply matter will expire on 31 January 2014.

Anything else?

NUNN STATE CROWN: Would your Honour order a drug destruction order in relation to the--

HER HONOUR: Yes I will order that the cannabis and the MDMA be



RSB:SND

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destroyed.

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