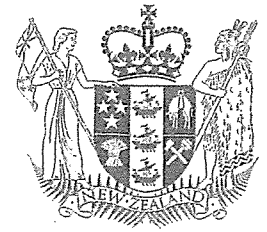


# Hon Iain Lees-Galloway



MP for Palmerston North

Minister for Workplace Relations and Safety Deputy Leader of the House

Minister of Immigration

Minister for ACC

19 SEP 2018

Karel Sroubek  
c/o Simon Laurent  
Laurent Law  
408 Mt Eden Road  
Mt Eden  
AUCKLAND 1024



CN: 9(2)(a)

Dear Mr Sroubek

## Re: Your liability for deportation

I am writing to you because I have determined under section 156(1)(b) of the Immigration Act 2009 ("the Act") that you hold a residence class visa in a false identity. You therefore became liable for deportation.

You were also convicted and, on 3 June 2016, sentenced in the Auckland District Court for the offence of importing ecstasy. As a result of this conviction you became liable for deportation under section 161(1)(c) of the Act.

Although I am satisfied that you meet the criteria for deportation from New Zealand, I have decided to cancel your liability for deportation pursuant to section 172(1) of the Act and then grant you a resident visa under section 72(3) of the Act in your true identity of Karel Sroubek, including your true date of birth.

This decision is subject to you providing Immigration New Zealand (INZ) with a valid travel document in your true identity. A copy of this letter should also be provided to INZ. If this condition is not met within five months of the date of this letter, this decision will be void and you will remain liable for deportation.

If the visa is granted, it will be subject to the following conditions which I am imposing under section 50(1) of the Act:

- 1) That you are not convicted, in New Zealand or elsewhere, of any offence committed during the next five years (starting upon your release from prison);
- 2) That you do not use any fraudulent identity, for any purpose, during the next five years (starting upon your release from prison); and
- 3) That you do not provide false or misleading information, or conceal any relevant information, in your dealings with any government agency during the next five years (starting upon your release from prison).

If you fail to meet the conditions imposed on your new resident visa, you may become liable for deportation under section 159 of the Act. Your case would then need to be considered again.

*This is a very serious matter and I do not condone your behaviour. I have given you one final chance to remain in New Zealand and this should serve as a clear warning to you.*

Please note that my cancelling your liability for deportation on this occasion does not prevent you from becoming liable on other grounds. I trust you will use this opportunity to make a positive contribution to New Zealand.

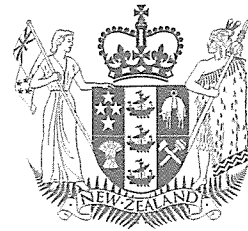
Yours sincerely



Hon Iain Lees-Galloway  
**Minister of Immigration**

Released under the Official Information Act

# Hon Iain Lees-Galloway



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Karel Sroubek  
c/o Simon Laurent  
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408 Mt Eden Road  
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CN: 9(2)(a)

Dear Mr Sroubek

## Re: Your liability for deportation

I am writing to you because you were convicted and, on 3 June 2016, sentenced in the Auckland District Court for the offence of importing ecstasy. As a result of this conviction you became liable for deportation under section 161(1)(c) of the Immigration Act 2009 ("the Act").

Although I am satisfied that you meet the criteria for deportation from New Zealand, I have decided to cancel your liability for deportation pursuant to section 172(1) of the Act.

Also, Immigration New Zealand (INZ) has advised me that you may be liable for deportation under section 156 of the Act. I have considered INZ's report and your submissions on this matter. Based on the information available to me, I consider there are insufficient grounds for me to determine you hold residence under a false identity and you are not liable for deportation under section 156 at this time.

Please note that my cancelling your liability for deportation on this occasion does not prevent you from becoming liable on other grounds. I trust you will use this opportunity to make a positive contribution to New Zealand.

Yours sincerely

Hon Iain Lees-Galloway  
Minister of Immigration

**DEPORTATION LIABILITY NOTICE**  
(Section 161 of the Immigration Act 2009)

To: Karel Sroubek AKA Jan Antolik

CN: 9(2)(a)

**You are liable for deportation**

You are liable for deportation from New Zealand under section 161(1)(c) of the Immigration Act 2009 ("the Act").

**Why you are liable for deportation**

You are a residence class visa holder. Pursuant to section 161(5) of the Act you first held a residence class visa on 6 June 2008. The grounds for your deportation liability are:

1. You were convicted and, on 3 June 2016, sentenced in the Auckland District Court for the offence of importing ecstasy.
2. You were sentenced to five years and nine months' imprisonment.
3. You committed the offence on 17 September 2014, which was not later than 10 years after you first held a residence class visa.

**Your appeal rights**

You may appeal to the Immigration and Protection Tribunal on humanitarian grounds against your liability for deportation (see s 206(1)(c) of the Act). You must submit any appeal on the form enclosed with this notice. The Tribunal must receive the appeal no later than 28 days after the date of service of this notice (see s 161(2)(a) of the Act).

**Consequences of deportation**

You are deported from New Zealand if:

- you leave New Zealand (whether or not at the expense of the Crown) on or after the date a deportation order may be served on you, or after a deportation order has been served on you; or
- a deportation order is served on you while you are outside New Zealand.

If you are deported from New Zealand, you will be permanently prohibited from re-entering New Zealand. If the Crown incurs any costs in respect of your deportation you must repay that debt to the Crown. If you attempt to return to New Zealand after you have been deported, you will not be granted a visa or entry permission. If you re-enter New Zealand, you may be detained under the Act.

**Visa cancellation**

In accordance with section 64(1)(a) and 64(1)(ab) of the Act, your visa will be cancelled the earlier of:

- a. The day you are deported from New Zealand; or
- b. The day after the first date a deportation order may be served on you.

Signed:

Date:

Hon Iain Lees-Galloway  
Minister of Immigration

## IMPORTANT INFORMATION FOR PERSON NAMED IN DEPORTATION LIABILITY NOTICE

### Transitional provisions

If you held a residence permit under the former Immigration Act 1987, then under section 415(1) of the Immigration Act 2009 you are now deemed to hold a residence class visa. Under section 434(1) of the Immigration Act 2009 you are liable for deportation whether the reason for your deportation liability arose before or after you were deemed to hold a visa.

If you arrived in New Zealand before 29 November 2010, have not departed since that date, and were exempt from holding a permit under the former Immigration Act 1987, then under section 417(3) of the Immigration Act 2009 you are now deemed to hold a residence class visa. Under section 434(1) of the Immigration Act 2009 you are liable for deportation whether the reason for your deportation liability arose before or after you were deemed to hold a visa.

### Rights of appeal

If you wish to appeal to the Immigration and Protection Tribunal (the Tribunal) on humanitarian grounds against your liability for deportation you must do so on the enclosed appeal form. Your appeal must be received by the Tribunal no later than 28 days after the date of service of the deportation liability notice. You can also download the form and further information on how to lodge an appeal from the Tribunal's website at [www.justice.govt.nz/tribunals/immigration-protection-tribunal/](http://www.justice.govt.nz/tribunals/immigration-protection-tribunal/)

### Date of service of deportation liability notice

If the deportation liability notice was served on you in person, it is treated as being served on that day.

If the deportation liability notice was served on you in New Zealand by registered post, the notice will be treated as having been served on you on the earlier of:

- The date it was delivered, or
- Seven days after the date it was posted, unless you can prove you did not receive the notice by that date, and that this was not your fault.

If the deportation liability notice was served on you outside New Zealand by registered post, the notice will be treated as having been served on you on the earlier of:

- The date it was delivered, or
- Fourteen days after the date it was posted, unless you can prove you did not receive the notice by that date, and that this was not your fault.

### When a deportation order may be served

Under section 175A of the Immigration Act 2009, a deportation order may be served on you if you do not lodge any appeal within the appeal period specified in this notice. If you do lodge an appeal, a deportation order may be served on you at the conclusion of any appeal proceedings (if any such appeal is determined against you), or on the day after your appeal is withdrawn. If you leave New Zealand at any time after lodging your appeal and before your appeal is determined your appeal is deemed to have been withdrawn.

### Your immigration status

If you have submitted an application for a permanent resident visa, or citizenship, the processing of that application will be suspended while you are liable for deportation.

If you are outside New Zealand when the deportation liability notice was served on you and you hold a visa, you may lodge an appeal against your deportation liability to the Tribunal within the prescribed timeframe and you may travel to New Zealand during the period in which the appeal can be made. Additionally, if you do appeal you may travel to New Zealand pending the determination of that appeal.

### Seeking advice

You may contact a lawyer or an immigration adviser. If you are under 18 years of age and you are not married or in a civil union, you may also contact a responsible adult who can represent your interests.

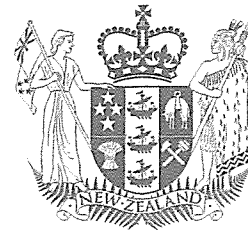
### Supporting or sponsoring other applications

Someone who is liable for deportation is not able to support or sponsor any residence or temporary entry visa applications.

If your deportation liability has been suspended, you are only able to support or sponsor family for temporary visas if the person you are supporting already holds a temporary visa based on their relationship to you. Apart from that exception, someone is not able to support or sponsor any residence or temporary entry visa applications while their deportation liability is suspended. These rules apply to residence applications lodged on or after 29 May 2017 and to all temporary entry visa applications.

END





MP for Palmerston North

Minister for Workplace Relations and Safety Deputy Leader of the House

Minister of Immigration

Minister for ACC

Karel Sroubek  
c/o Simon Laurent  
Laurent Law  
408 Mt Eden Road  
Mt Eden  
AUCKLAND 1024

CN: 9(2)(a)

LETTER  
NOT  
SIGNED  
BY  
MINISTER

Dear Mr Sroubek

## Re: Your liability for deportation

I am writing to you because you were convicted and, on 3 June 2016, sentenced in the Auckland District Court for the offence of importing Ecstasy. As a result of this conviction you became liable for deportation under section 161(1)(c) of the Immigration Act 2009 ("the Act"). For further details, refer to the enclosed deportation liability notice.

Although I am satisfied that you meet the criteria for deportation from New Zealand, I have decided to suspend your liability for deportation for a period of five (5) years, pursuant to section 172(2) of the Act.

*This is a very serious matter and I do not condone your behaviour. I have given you one final chance to remain in New Zealand by choosing to suspend your deportation liability, and this should serve as a clear warning to you.*

The suspension period begins on the date the enclosed deportation liability notice is served, or deemed to be served. However, if you are in prison or serving a sentence of home detention when your deportation liability notice is served, the suspension period will begin when you are released from prison or when your home detention ends.

The suspension of your liability for deportation is subject to your compliance with the following conditions:

- 1) That you are not convicted of any offence committed during the suspension period, whether in New Zealand or elsewhere;
- 2) That you are not convicted of any offence during the suspension period, whether in New Zealand or elsewhere; and
- 3) That you comply with the conditions of your parole and prison release.

If you comply with these conditions, your liability for deportation will be cancelled at the end of the suspension period. Should you fail to comply with these conditions, your liability for deportation may be reactivated and a new deportation liability notice would be served. You would have no new right of appeal and would be required to leave New Zealand within 28 days of service of the notice.

My decision to suspend your liability for deportation does not prevent you from appealing against that liability. Instructions on how to appeal to the Immigration and Protection Tribunal are included in the enclosed deportation liability notice.

Also, Immigration New Zealand (INZ) has advised me that you may be liable for deportation under section 156 of the Act. I have considered INZ's report and your submissions on this matter. Based on the information available to me, I consider there are insufficient grounds for me to determine that you hold residence under a false identity. Therefore, you are not liable for deportation under section 156 at this time.

**This suspension may affect other applications**

It is very important to note that while your liability for deportation is suspended:

- you are not eligible to apply for a permanent resident visa or New Zealand citizenship. If you have already applied, your application will now be suspended. If you currently hold a permanent resident visa, you are able to apply for a replacement if you need to.
- you are only able to support or sponsor family for temporary visas if the person you are supporting already holds a temporary visa based on their relationship to you. Apart from that exception, you are not able to support or sponsor any residence or temporary entry visa applications while your deportation liability is suspended. These rules apply to residence applications lodged on or after 29 May 2017 and to all temporary entry visa applications.

Please note that this suspension does not prevent you from becoming liable for deportation on other grounds.

Please also note that at the end of the suspension period, your deportation liability is not automatically cancelled. There is a formal process to be followed and Immigration New Zealand (INZ) will need to contact you at the appropriate time with regard to that process. To that end, it is very important you update INZ with any changes to your contact details. You may do so by ringing INZ's contact centre at 0508 55 88 55.

I trust you will use this opportunity to make a positive contribution to New Zealand.

Yours sincerely

Hon Iain Lees-Galloway  
Minister of Immigration

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Released under the Official Information Act

**DEPORTATION LIABILITY NOTICE**  
(Section 161 of the Immigration Act 2009)

To: Karel Sroubek AKA Jan Antolik

CN: 9(2)(a)

**You are liable for deportation**

You are liable for deportation from New Zealand under section 161(1)(c) of the Immigration Act 2009 ("the Act").

**Why you are liable for deportation**

You are a residence class visa holder. Pursuant to section 161(5) of the Act you first held a residence class visa on 6 June 2008. The grounds for your deportation liability are:

1. You were convicted and, on 3 June 2016, sentenced in the Auckland District Court for the offence of importing ecstasy.
2. You were sentenced to five years and nine months' imprisonment.
3. You committed the offence on 17 September 2014, which was not later than 10 years after you first held a residence class visa.

**Your appeal rights**

You may appeal to the Immigration and Protection Tribunal on humanitarian grounds against your liability for deportation (see s 206(1)(c) of the Act). You must submit any appeal on the form enclosed with this notice. The Tribunal must receive the appeal no later than 28 days after the date of service of this notice (see s 161(2)(a) of the Act).

**Consequences of deportation**

You are deported from New Zealand if:

- you leave New Zealand (whether or not at the expense of the Crown) on or after the date a deportation order may be served on you, or after a deportation order has been served on you; or
- a deportation order is served on you while you are outside New Zealand.

If you are deported from New Zealand, you will be permanently prohibited from re-entering New Zealand. If the Crown incurs any costs in respect of your deportation you must repay that debt to the Crown. If you attempt to return to New Zealand after you have been deported, you will not be granted a visa or entry permission. If you re-enter New Zealand, you may be detained under the Act.

**Visa cancellation**

In accordance with section 64(1)(a) and 64(1)(ab) of the Act, your visa will be cancelled the earlier of:

- a. The day you are deported from New Zealand; or
- b. The day after the first date a deportation order may be served on you.

Signed:

Date:

Hon Iain Lees-Galloway  
Minister of Immigration

LETTER  
NOT  
SIGNED  
BY  
MINISTER

Released under the Official Information Act



## IMPORTANT INFORMATION FOR PERSON NAMED IN DEPORTATION LIABILITY NOTICE

### Transitional provisions

If you held a residence permit under the former Immigration Act 1987, then under section 415(1) of the Immigration Act 2009 you are now deemed to hold a residence class visa. Under section 434(1) of the Immigration Act 2009 you are liable for deportation whether the reason for your deportation liability arose before or after you were deemed to hold a visa.

If you arrived in New Zealand before 29 November 2010, have not departed since that date, and were exempt from holding a permit under the former Immigration Act 1987, then under section 417(3) of the Immigration Act 2009 you are now deemed to hold a residence class visa. Under section 434(1) of the Immigration Act 2009 you are liable for deportation whether the reason for your deportation liability arose before or after you were deemed to hold a visa.

### Rights of appeal

If you wish to appeal to the Immigration and Protection Tribunal (the Tribunal) on humanitarian grounds against your liability for deportation you must do so on the enclosed appeal form. Your appeal must be received by the Tribunal no later than 28 days after the date of service of the deportation liability notice. You can also download the form and further information on how to lodge an appeal from the Tribunal's website at [www.justice.govt.nz/tribunals/immigration-protection-tribunal/](http://www.justice.govt.nz/tribunals/immigration-protection-tribunal/)

### Date of service of deportation liability notice

If the deportation liability notice was served on you in person, it is treated as being served on that day.

If the deportation liability notice was served on you in New Zealand by registered post, the notice will be treated as having been served on you on the earlier of:

- The date it was delivered, or
- Seven days after the date it was posted, unless you can prove you did not receive the notice by that date, and that this was not your fault.

If the deportation liability notice was served on you outside New Zealand by registered post, the notice will be treated as having been served on you on the earlier of:

- The date it was delivered, or
- Fourteen days after the date it was posted, unless you can prove you did not receive the notice by that date, and that this was not your fault.

### When a deportation order may be served

Under section 175A of the Immigration Act 2009, a deportation order may be served on you if you do not lodge any appeal within the appeal period specified in this notice. If you do lodge an appeal, a deportation order may be served on you at the conclusion of any appeal proceedings (if any such appeal is determined against you), or on the day after your appeal is withdrawn. If you leave New Zealand at any time after lodging your appeal and before your appeal is determined your appeal is deemed to have been withdrawn.

### Your immigration status

If you have submitted an application for a permanent resident visa, or citizenship, the processing of that application will be suspended while you are liable for deportation.

If you are outside New Zealand when the deportation liability notice was served on you and you hold a visa, you may lodge an appeal against your deportation liability to the Tribunal within the prescribed timeframe and you may travel to New Zealand during the period in which the appeal can be made. Additionally, if you do appeal you may travel to New Zealand pending the determination of that appeal.

### Seeking advice

You may contact a lawyer or an immigration adviser. If you are under 18 years of age and you are not married or in a civil union, you may also contact a responsible adult who can represent your interests.

### Supporting or sponsoring other applications

Someone who is liable for deportation is not able to support or sponsor any residence or temporary entry visa applications.

If your deportation liability has been suspended, you are only able to support or sponsor family for temporary visas if the person you are supporting already holds a temporary visa based on their relationship to you. Apart from that exception, someone is not able to support or sponsor any residence or temporary entry visa applications while their deportation liability is suspended. These rules apply to residence applications lodged on or after 29 May 2017 and to all temporary entry visa applications.

END

**DEPORTATION LIABILITY NOTICE**  
(Section 156 of the Immigration Act 2009)

To: Karel Sroubek aka Jan Antolik

CN: 9(2)(a)

**You are liable for deportation**

You are liable for deportation from New Zealand under section 156(1)(b) of the Immigration Act 2009 ("the Act").

**Why you are liable for deportation**

The identity under which you hold a residence class visa is not your true identity. I have determined that:

1. On 16 September 2003, you travelled to New Zealand. Upon arrival, you presented a Czech Republic-issued passport (passport number 9(2)(a) in the name of Jan Antolik, date of birth 20 October 1981.
2. On 5 November 2007, you applied for residence under the Work to Residence, Talent – Sports Category. You applied under the name Jan Antolik and provided a Czech Republic-issued passport (passport number 9(2)(a) ) in the name of Jan Antolik.
3. On 6 June 2008, Immigration New Zealand (INZ) approved the application and granted you a residence permit in the name of Jan Antolik.
4. During your Court case in 2010-2011 the New Zealand Police carried out a fingerprint match with the relevant Czech Republic authorities. It was confirmed your real identity is Karel Sroubek, date of birth 28 February 1981. You also admitted in Court that you travelled to New Zealand under the false identity and passport of Jan Antolik.
5. I am satisfied that your true name is Karel Sroubek, born on 28 February 1981, a citizen of Czech Republic.

You therefore hold a residence class visa under a false identity and are liable for deportation under section 156(1)(b) of the Act.

**Your appeal rights**

You may appeal to the Immigration and Protection Tribunal on the facts against your liability for deportation (see s 201(1) of the Act). Such appeals must be received by the Tribunal within 28 days of service of this deportation liability notice. However, your right to appeal to the Tribunal on humanitarian grounds has lapsed. Such appeals must be received by the Tribunal within 42 days of becoming unlawful in New Zealand (see s 156(3)(a) of the Act). For the purpose of section 156, you are deemed to have been unlawfully in New Zealand since 16 September 2003 (see s 156(4)(a) of the Act).

**Consequences of deportation**

You are deported from New Zealand if:

- you leave New Zealand (whether or not at the expense of the Crown) on or after the date a deportation order may be served on you, or after a deportation order has been served on you; or
- a deportation order is served on you while you are outside New Zealand.

If you are deported from New Zealand, you will be permanently prohibited from re-entering New Zealand. If the Crown incurs any costs in respect of your deportation you must repay that debt to the Crown. If you attempt to return to New Zealand after you have been deported, you will not be granted a visa or entry permission. If you re-enter New Zealand, you may be detained under the Act.

**Visa cancellation**

In accordance with section 64(1)(a) and 64(1)(ab) of the Act, your visa will be cancelled the earlier of:

- a. The day you are deported from New Zealand; or
- b. The day after the first date a deportation order may be served on you.

Signed:

Date:

LETTER  
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SIGNED  
BY  
MINISTER

Hon Iain Lees-Galloway  
Minister of Immigration

## IMPORTANT INFORMATION FOR PERSON NAMED IN DEPORTATION LIABILITY NOTICE

### Transitional provisions

If you held a residence permit under the former Immigration Act 1987, then under section 415(1) of the Immigration Act 2009 you are now deemed to hold a residence class visa. Under section 434(1) of the Immigration Act 2009 you are liable for deportation whether the reason for your deportation liability arose before or after you were deemed to hold a visa.

If you arrived in New Zealand before 29 November 2010, have not departed since that date, and were exempt from holding a permit under the former Immigration Act 1987, then under section 417(3) of the Immigration Act 2009 you are now deemed to hold a residence class visa. Under section 434(1) of the Immigration Act 2009 you are liable for deportation whether the reason for your deportation liability arose before or after you were deemed to hold a visa.

### Rights of appeal

If you wish to appeal to the Immigration and Protection Tribunal (the Tribunal) against your liability for deportation, you must do so on the enclosed appeal form. Your appeal must be received by the Tribunal within the period stated in the deportation liability notice. You can also download the form and further information on how to lodge an appeal from the Tribunal's website at [www.justice.govt.nz/tribunals/immigration-protection-tribunal/](http://www.justice.govt.nz/tribunals/immigration-protection-tribunal/)

### Date of service of deportation liability notice

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If the deportation liability notice was served on you in New Zealand by registered post, the notice will be treated as having been served on you on the earlier of:

- The date it was delivered; or
- Seven days after the date it was posted, unless you can prove you did not receive the notice by that date, and that this was not your fault.

If the deportation liability notice was served on you outside New Zealand by registered post, the notice will be treated as having been served on you on the earlier of:

- The date it was delivered; or
- Fourteen days after the date it was posted, unless you can prove you did not receive the notice by that date, and that this was not your fault.

### When a deportation order may be served

Under section 175A of the Immigration Act 2009, a deportation order may be served on you if you do not lodge any appeal within the appeal period specified in this notice. If you do lodge an appeal, a deportation order may be served on you at the conclusion of any appeal proceedings (if any such appeal is determined against you), or on the day after your appeal is withdrawn. If you leave New Zealand at any time after lodging your appeal and before your appeal is determined your appeal is deemed to have been withdrawn.

### Your immigration status

If you have submitted an application for a permanent resident visa, or citizenship, the processing of that application will be suspended while you are liable for deportation.

If you are outside New Zealand when the deportation liability notice was served on you and you hold a visa, you may lodge an appeal against your deportation liability to the Tribunal within the prescribed timeframe and you may travel to New Zealand during the period in which the appeal can be made. Additionally, if you do appeal you may travel to New Zealand pending the determination of that appeal.

### Seeking advice

You may contact a lawyer or an immigration adviser. If you are under 18 years of age and you are not married or in a civil union, you may also contact a responsible adult who can represent your interests.

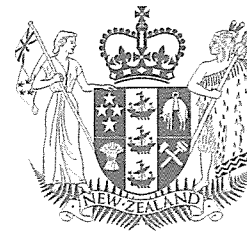
### Supporting or sponsoring other applications

Someone who is liable for deportation is not able to support or sponsor any residence or temporary entry visa applications.

If your deportation liability has been suspended, you are only able to support or sponsor family for temporary visas if the person you are supporting already holds a temporary visa based on their relationship to you. Apart from that exception, someone is not able to support or sponsor any residence or temporary entry visa applications while their deportation liability is suspended. These rules apply to residence applications lodged on or after 29 May 2017 and to all temporary entry visa applications.

END

# Hon Iain Lees-Galloway



MP for Palmerston North

Minister for Workplace Relations and Safety Deputy Leader of the House

Minister of Immigration

Minister for ACC

Karel Sroubek  
c/o Simon Laurent  
Laurent Law  
408 Mt Eden Road  
Mt Eden  
AUCKLAND 1024

CN: 9(2)(a)

Dear Mr Sroubek

## Re: Your liability for deportation

I am writing to you because I determined under section 156(1)(b) of the Immigration Act 2009 ("the Act") that you hold a residence class visa in a false identity. You therefore became liable for deportation.

You were also convicted and, on 3 June 2016, sentenced in the Auckland District Court for the offence of importing ecstasy. As a result of this conviction you became liable for deportation under section 161(1)(c) of the Act.

Although I am satisfied that you meet the criteria for deportation from New Zealand, I have decided to cancel your liability for deportation pursuant to section 172(1) of the Act and then grant you a resident visa under section 72(3) of the Act in your true identity of Karel Sroubek.

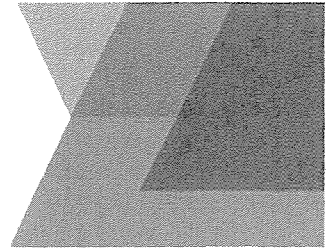
This decision is subject to your providing Immigration New Zealand (INZ) with a valid travel document in your true identity. A copy of this letter should also be provided to INZ. If this condition is not met within five months of the date of this letter, this decision will be void and you will remain liable for deportation.

Please note that my cancelling your liability for deportation on this occasion does not prevent you from becoming liable on other grounds.

Yours sincerely

LETTER  
NOT  
SIGNED  
BY  
MINISTER

Hon Iain Lees-Galloway  
Minister of Immigration



**MEMORANDUM**

To: Alison Marris, Office of the Minister of Immigration

From: Margaret Cantlon  
Immigration Resolutions


Date: 18-09-18

Subject: **Deportation liability assessment – Karel Sroubek – CN: 9(2)(a)**

Enclosed is a deportation liability assessment for consideration by the Minister of Immigration.

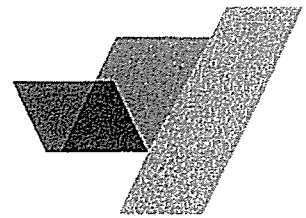
Should the Minister decide to suspend the deportation liability in this case, he must sign both deportation liability notices and the deportation liability suspension letter.

Please return the file to Angela Vinsen, Immigration Resolutions once a decision has been made.

  
Margaret Cantlon  
Manager  
Immigration Resolutions

Released under the Official Information Act





## DEPORTATION LIABILITY ASSESSMENT

Sections 156 and 161 of the Immigration Act 2009

Case: 6283

CN: 9(2)(a)

### CLIENT

#### Name

Karel SROUBEK (Mr)

AKA: Jan ANTOLIK

#### DOB

9(2)(a)

#### Nationality

Czech Republic

Czech Republic

**s161 offence:** Importing ecstasy  
**Maximum penalty:** 14 years' imprisonment  
**Sentence:** Five years and nine months' imprisonment

**Offence date:** 17 September 2014      **Sentence date:** 3 June 2016  
**Next parole date:** September 2019      **Stat. release date:** 1 January 2022

**Reason for section 156 assessment:** Provided false identity documents when entering New Zealand and with residence application

**Liability determined:** 156(1)(b) – by Minister

**Residence category:** Residence from Work, Talent - Sports      **First held residence:** 6 June 2008

**Location:** Auckland South      **Employment:** Unemployed  
 Corrections Facility

### FAMILY IN NEW ZEALAND

#### Name

9(2)(a) (Mrs)

#### Age

9(2)(a)

#### Relationship

Wife (separated)

#### Immigration status

Citizen

**Other family:** Mr Sroubek's parents live in the Czech Republic.

### Overview

[1] Karel Sroubek is a 37-year-old Czech national who was granted residence under the Residence from Work, Talent – Sports Category on 6 June 2008 under the identity of Jan Antolik. Mr Sroubek is potentially liable for deportation under section 156(1)(b) of the Immigration Act 2009 ("the Act") because he admits holding a resident visa under a false identity, being the identity of Jan Antolik, date of birth 20 October 1981.

[2] On 17 September 2014, Mr Sroubek imported ecstasy. He was convicted of that offence, sentenced on 3 June 2016, and is now liable for deportation from New Zealand under section 161(1)(c) of the Act.

### Immigration history

[3] Mr Sroubek's immigration history is not clear-cut. It appears that he may have travelled in and out of New Zealand using more than one travel document. Below is a history of all the recorded applications and movements for 'Jan Antolik'.



[4] On 16 September 2003, Mr Sroubek (as Mr Antolik) arrived in New Zealand and was granted a visitor's permit valid until 16 December 2003. A second arrival date (there is no recorded departure date) of 29 November 2003 is recorded. Mr Sroubek was granted a visitor's permit valid until 29 February 2004.

[5] The real Mr Antolik states that on 9(2)(a)  
9(2)(a)

[6] On 8 March 2004 (a week after his visitor's permit expired) and on 13 July 2004, Mr Sroubek departed New Zealand. There is no recorded arrival dates between these two dates.

[7] On 23 January 2005, Mr Sroubek returned to New Zealand, again using the Antolik identity. He was granted a visitor's permit valid until 23 April 2005.

[8] On 15 April 2005, Mr Sroubek, as Antolik, applied for a work permit and visa under the Work to Residence, Talent – Sports Category. The application was approved on 11 May 2005 and Mr Sroubek was granted a permit and visa valid until 15 December 2006. He was granted further work permits under this category until he was approved residence.

[9] On 5 November 2007, Mr Sroubek applied for residence under the Work to Residence, Talent – Sports Category, under the name Jan Antolik. The application was approved on 6 June 2008 and he was granted residence.

[10] Mr Sroubek has travelled in and out of New Zealand multiple times since his first recorded entry in 2003. He has remained in New Zealand since 24 September 2009.

[11] Pursuant to sections 415(1) and 434(1) of the Act, Mr Sroubek is now deemed to hold a residence class visa and is liable for deportation whether the reason for his deportation liability arose before or after he was deemed to hold the visa.

*Passport history*

[12] The real Jan Antolik provided a statement to Czech authorities stating that 9(2)(a)

9(2)(a)

[13] Mr Sroubek's lawyer, Simon Laurent, has provided an affidavit dated 28 March 2011 from the real Jan Antolik. In his affidavit Mr Antolik states 9(2)(a)

9(2)(a)

Travel date	Passport used
16 September 2003 (arrival)	9(2)(a)
29 November 2003 (arrival)	
8 March 2004 (departure)	
13 July 2004 (departure)	

23 January 2005 – 13 January 2006	9(2)(a)
3 November 2006 – 23 June 2008	
16 August 2008 (arrival) <sup>1</sup>	
16 August 2008 (arrival)	
30 April 2009 – 24 September 2009	

Application	Passport used
9(2)(a) (work permit)	9(2)(a)
(visitor permit)	
(work to residence permit)	
(replacement work permit)	
(work to residence permit)	
(residence permit)	

[14] On 9 March 2012, the Department of Internal Affairs (DIA) confirmed that Mr Sroubek is not a New Zealand citizen under either of his identities. On 19 December 2017, a follow up check was done and the DIA confirmed that Mr Sroubek is not a New Zealand citizen.

**Offence – s161 liability**

[15] Mr Sroubek operated a business known as 18(c)(ii). The business imported beverages and sold them at the wholesale level in New Zealand. The business involved arranging shipments of products, clearing them through Customs and arranging sales to various customers. One of the shipments was stopped by Customs. The shipment contained close to five kilograms of ecstasy. The ecstasy was hidden in packets of juice imported by Mr Sroubek's company and were the only items contained in the container.

[16] The shipment originated from Europe and stopped at various places, including Singapore, on the way to New Zealand. The evidence at Mr Sroubek's trial established that Europe was the likely point at which the ecstasy was introduced into the containers. It had been packed into a handful of individual one-litre cartons, themselves packed within boxes containing a number of cartons and themselves packed on pallets and placed into the shipping container.

[17] Prior to the container arriving in New Zealand, Mr Sroubek had been sent a car buffer machine through the mail. When checked by Customs officials, hidden within it were shipping container bolts. The significance of the shipping container bolts are that both of them, but one in particular, bore markings and a number strikingly similar to that on the shipping container which later arrived in Auckland. Mr Sroubek was found in possession of one of the bolts later on. These bolts potentially could have allowed a person to access the container, re-seal it and possibly escape detection. The sentencing notes of Judge E M Thomas are tagged B.

[18] Mr Sroubek pleaded not guilty to the offence but was found guilty by a jury. The Auckland District Court's record of hearing is tagged C.

**Pre-sentence report**

[19] On 1 June 2016, the Department of Corrections (Corrections) completed a Provision of Advice to Courts report. It is noted that Mr Sroubek was unable to be interviewed for the report so information from a 2014 Corrections' report was used. Mr Sroubek was assessed as being at low risk

<sup>1</sup> The two arrivals on 16 August 2008 were on the same flight. Two different passports were presented at the border and two different permits were granted. It is unknown if two people travelled using one passport each.

of re-offending due to it being his first serious drug offence and that it dated back to 2014. He was also assessed as being at low risk of causing harm to others, as he had no violent offences. The Corrections' report is tagged D.

#### *Sentencing*

[20] When sentencing Mr Sroubek, Judge E M Thomas noted that this was a one-off shipment and there was no suggestion that there were any other shipments before this one. The Judge stated that the offending involved a significant amount of ecstasy, it involved organisation and planning but on the other hand he had to balance it on the scale of complexity and planning and sophistication of drug operations generally.

[21] The Judge stated that during the trial it was established to the jury's satisfaction that Mr Sroubek was aware that the container contained drugs and that he had some role in them being there. The evidence was not able to establish what steps Mr Sroubek or anyone else took to place them in the container. The evidence was not able to establish whose idea it all was and was not able to establish who was to be solely responsible for its distribution in New Zealand and in what form and to whom. The Judge could not say that Mr Sroubek was the mastermind, or that he was at the top of the tree. However, he pointed out that Mr Sroubek was prepared to use his business as a front. He would have only done so if he was expecting a significant return or share in the return.

[22] When determining a sentence for Mr Sroubek, the Judge used a starting point of six years and six months' imprisonment. Discount was given because:

- Mr Sroubek was highly regarded by many in the community;
- He successfully created and operated a business;
- He contributed in many ways to the community;
- He had no relevant previous convictions;
- It seemed that he had applied himself hard to his work and sport; and
- He had represented New Zealand in sports and trained and mentored others.

[23] On 3 June 2016, Mr Sroubek was sentenced to five years and nine months' imprisonment. For the sentencing notes of Judge E M Thomas, refer tag B.

#### *Unsuccessful appeal*

[24] Mr Sroubek lodged an appeal with the Court of Appeal against his conviction on the grounds that the jury's verdict was unreasonable and a miscarriage of justice had occurred. He contended that proper enquiries would have revealed the reasonable possibility that someone put drugs in the container without his knowledge in order to frame him. The Court concluded that the jury's verdict could not be said to be unreasonable and it was far from satisfied that there was any risk that justice had miscarried. On 11 December 2017, his appeal was dismissed. The Court of Appeal decision is tagged E.

#### *Referral from INZ office*

[25] This case was initially referred to Immigration Resolutions (Resolutions) as Mr Sroubek had criminal convictions (for producing false information and/or documents knowing them to be false) which appeared to make him liable for deportation under section 161(1) of the Act.

[26] Mr Sroubek had been charged with four counts of producing/surrendering a document or supplying information knowing it to be false/misleading and one count of offending against the

Passport Act 1992. During sentencing, Mr Sroubek's lawyer stated that if convicted, Mr Sroubek would be deported without the ability to appeal the decision. He urged the Judge to discharge Mr Sroubek without conviction to prevent him from being deported. The Judge believed that Mr Sroubek's life may be in danger if he returned to the Czech Republic and stated that he thought he had made a good contribution to New Zealand since his arrival. The Judge advised Mr Sroubek that he would be discharged without conviction if he completed his community work in relation to the charges. Mr Sroubek met those requirements and was ultimately discharged without conviction. That discharge without conviction meant that Mr Sroubek was not liable under section 161(1) of the Act.

[27] During his trial, in which he was charged under the name Jan Antolik, Mr Sroubek stated that his real name was Karel Sroubek and he came to New Zealand under a false identity (Jan Antolik) with a passport he obtained from a friend. He stated that he came to New Zealand after witnessing a murder in the Czech Republic and being in fear for his life after that event. Mr Sroubek now appears to be potentially liable for deportation under section 156(1)(b) of the Act.

#### **Assessment (section 156 of the Act – false identity)**

##### *Initial investigation by Resolutions*

[28] In October 2009, Czech Police contacted the New Zealand Police and advised that a man named Karel Sroubek was wanted in relation to a murder in 2003. The Czech Police informed the New Zealand Police that Mr Sroubek was living in New Zealand under the assumed identity of Jan Antolik. See notes tagged F.

[29] As stated above, in 2012, Mr Sroubek was discharged without conviction for four counts of producing/surrendering a document or supplying information knowing it to be false/misleading and one count of offending against the Passport Act 1992.

[30] On 20 March 2018, the New Zealand Police sought an update from the Czech Police as to the charge Mr Sroubek was facing there. The Czech police confirmed that Mr Sroubek is wanted for a prosecution in connection with an incident on 7 September 2003 where he was one of a group of men involved in a violent attack on a victim, during which the victim was shot dead by another member of the group. It is believed that Mr Sroubek faces charges of attempted bodily harm and disorderly conduct in connection with the incident.

[31] Mr Sroubek is also wanted by Czech authorities for service of 54 months' imprisonment in connection with an incident on 28 June 1999, in which he attacked and grievously injured two Police officers and another incident on 4 October 1999, where he attacked a taxi driver. It is understood that Mr Sroubek was convicted on 12 February 2002 of disorderly conduct, damaging of another's property and attacking a law enforcement officer. The email from the New Zealand Police is tagged G.

[32] Mr Sroubek has admitted in a New Zealand Court that he travelled to New Zealand under the false identity of Jan Antolik and that he used that identity when dealing with INZ.

##### *Response from client*

[33] Mr Sroubek asks that his case be carefully considered with an open mind, based on events and facts that cannot be disputed or ignored and were acknowledged by the Crown and Court in 2011. Mr Sroubek states that those facts include:

- Fabricated warrants by the Czech Police used to put his name on the Interpol watch list;
- Threatening behaviour by the Czech Police before and after his escape; and
- Continuous publications in the Czech mainstream media providing false information and using an actor to portray him in a news interview.

[34] Mr Sroubek asks that the Minister takes into account Judge Wade's judgement and views in his 2011 District Court trial (see tag H). He says that the Judge fully understood his case, having witnessed all of the evidence presented in Court. Mr Sroubek also requests that the Minister conducts his own research into widespread and well-known corruption within the state authorities in the Czech Republic and the links between organised crime figures and Police officials. He also asks that the Minister take into consideration the circumstances he was facing when he left the Czech Republic and the unpredictable circumstances he may face if deported back there.

[35] Mr Sroubek states that if the above is considered then the Minister must recognise his use of a different identity as a necessary tool to be free from persecution and the ill treatment he faces in his home country.

[36] When asked why he travelled to New Zealand in 2003 using the false identity and passport of Jan Antolik, Mr Sroubek states that the details of his case were established at his trial in 2011. He adds that it was never his intention to use the false identity and mislead the New Zealand authorities. He says a person was shot to death and he was forced by the Police to make a false statement and told if he did not he would be charged with being an accessory to the murder, which was horrifying for him. Mr Sroubek decided that if he hid within the Czech Republic he would have been added to the fugitive database and shot at the first opportunity.

[37] Mr Sroubek and his parents consulted a lawyer about his situation and he says it became clear that he was not 100 percent safe and would need to leave the country until it was clear what was happening with his case. He states it was never his intention or plan to leave the Czech Republic and travel to New Zealand on a false identity. Unfortunately, the desperate situation he found himself in did not leave him with any other option.

[38] Mr Sroubek says that he crossed the border to Germany and intended on staying for a few days but then found out his parents had been threatened by the Czech Police and he knew he was no longer safe in Europe. Mr Sroubek says that the only way to leave Europe safely was to use a false identity. He says this fact was accepted by the Crown and the Court during his 2011 Court case. He says he did not know anything about New Zealand and did not speak any English but knew New Zealand was far away from his home country and believed he would be safe here.

[39] Mr Sroubek says that when he arrived at the New Zealand border he did not disclose his true identity, as he did not think he would be believed by the authorities. He says he did not intend to live in New Zealand permanently; it was just a place to stay until his situation in the Czech Republic was sorted. After a few months in New Zealand, Mr Sroubek missed his friends and family, so travelled to Germany to see them. At that point he was told by his parents that he was put on an Interpol list and was wanted in connection with a murder. He believed that he was not being given a fair investigation and that he would never be able to freely live in the Czech Republic.

[40] Mr Sroubek decided to leave Europe forever and returned to New Zealand. He says he wanted to use his true identity when returning to New Zealand. He knew he would be applying for residence and citizenship and did not want to lie anymore or pretend to be somebody else.



However, the fact he was now a fugitive under fabricated charges made it difficult for him to travel on his true identity. Mr Sroubek's deportation liability questionnaire is tagged I.

*Response from lawyer Simon Laurent*

[41] Mr Laurent talks about the evidence the real Mr Antolik gave in Court during Mr Sroubek's 2011 case regarding the use of his passport by Mr Sroubek (see paragraphs [12] and [13]). Mr Laurent states that it is clear that Mr Antolik's statement to Interpol in 2010 stating 9(2)(a) was not credible. 9(2)(a)

9(2)(a) Mr Laurent says that the second affidavit made by Mr Antolik where he says 9(2)(a) is consistent with Mr Sroubek's claims.

[42] Mr Laurent goes into more detail about the murder that Mr Sroubek witnessed, the police investigation and the subsequent charges against him. Mr Laurent then talks about the reasons why Mr Sroubek and his family felt it was no longer safe for him to live in Europe and why he needed to use a false identity to travel to New Zealand.

[43] Mr Laurent states that the legal opinion of 9(2)(a) was provided for the defence of Mr Sroubek's immigration charges. 9(2)(a) says that if Mr Sroubek had been convicted in the Czech Republic with his co-offenders then he would have only been found to have committed riotous conduct and likely have received a suspended sentence. A second opinion some 19 months later says that in the lawyer's opinion the Czech law enforcement was not following proper procedure in respect of Mr Sroubek, including the manner of approach by Police officers to his parents. The legal opinions and a statement by 9(2)(a) are tagged J.

[44] Mr Laurent says that it was anomalous that Interpol's record of the European Union arrest warrant issued for Mr Sroubek lists him as wanted for both attempted bodily harm and hooliganism (see tag H). He says the warrant was issued on 10 August 2009, some years after others involved in the murder in the Czech Republic were convicted. Mr Laurent says this raises the question of whether someone influenced the inflation of Mr Sroubek's culpability for an improper purpose. Mr Laurent says this and other evidence provided in Mr Sroubek's trial for the immigration charges persuaded the Judge to enter a discharge without conviction. He says the Judge appears to have accepted Mr Sroubek's account of events and comments and that the Crown did not dispute them. Mr Laurent says that the Judge took the stance that Mr Sroubek held a subjective fear of serious harm and unfair treatment by the authorities in the Czech Republic.

[45] Mr Laurent has provided statements from Mr Sroubek and his parents that were used during his immigration Court case as well as a number of Czech Court documents. These documents are tagged L.

[46] Mr Laurent has obtained reports from private investigators dated May 2018. He says that the reports note that there has been an increased interest in Mr Sroubek generated following the person who was convicted of the crime in the Czech Republic being released from prison. He says that the report states that the Police themselves remain corrupt and are responsible for severe mistreatment of detainees in order to force testimonies. The private investigators' reports are tagged M. Mr Laurent has provided media reports regarding Czech Police mistreatment and has had them partially translated into English. Mr Laurent says that just a few months ago the Czech



Prime Minister stated publically that one could get a prosecution "made to order" in his country. Mr Laurent's submission is tagged N.

#### Conclusion

[47] During his 2011 trial for immigration offending, Mr Sroubek admitted in Court that he entered New Zealand using the false identity of Jan Antolik and went on to gain residence under that false identity. He and his lawyer have also confirmed this in their deportation submissions to INZ. Mr Sroubek states that he used the false identity because he was fearful of his safety in the Czech Republic, but the fact remains that he gained temporary permits and then went on to gain residence under a false identity.

[48] If Mr Sroubek believed his life was in danger he could have arrived at the New Zealand border and made a claim for protected person status or made a refugee claim using his true identity. INZ would not have returned him to his home country without fully investigating his claims.

#### Relevant legislations

[49] Section 161(1)(c) of the Act states that a residence class visa holder is liable for deportation if he or she is convicted, in New Zealand or elsewhere:

- (c) of an offence and sentenced to imprisonment for a term of 5 years or more (or for an indeterminate period capable of running for 5 years or more), if the offence was committed not later than 10 years after the person first held a residence class visa.

[50] Mr Sroubek is liable for deportation under section 161(1)(c) because he was convicted and sentenced to imprisonment for five years and nine months for an offence committed no later than 10 years after he first held a residence class visa.

[51] Section 156(1)(b) of the Act states that a person is liable for deportation if:

- (b) the Minister determines that the person holds a visa under a false identity.

[52] If you determine that Mr Sroubek holds his resident visa under a false identity, then he will become liable for deportation under section 156(1)(b) of the Act.

#### Comments on offending

[53] Mr Sroubek states that his offending is of a serious nature and he is very disappointed that he had put himself in a position where he was found guilty of knowledge of the shipment. He states that he must accept the verdict of the jury even though there were several issues with how the Crown ran their case, and how the cargo especially buffer machine containing seals were intercepted by Customs. Mr Sroubek states that no proper investigation was carried out into who placed the drugs into the container and who sent the buffer machine, as he does not know himself.

[54] Mr Sroubek says that he and his family have suffered significantly because of this offence. Because of this offence he says that he has lost everything he truly cared about, his house, his freedom and his wife. He says he has brought shame upon himself and his family.

#### Personal circumstances

##### Family

[55] Mr Sroubek is married to 9(2)(a) a New Zealand citizen. He says 9(2)(a) 9(2)(a)

9(2)(a) 18(c)(ii) 9(2)(a)  
9(2)(a) 18(c)(ii) 9(2)(a) 9(2)(a) states that they are currently not together but she financially and mentally supports him while he is in prison.

[56] Mr Sroubek says that he only keeps in contact with his parents who are 9(2)(a) 9(2)(a)

#### Skills and employment

[57] Mr Sroubek reports that he has 9(2)(a) which he gained in the Czech Republic 9(2)(a). He is currently working 9(2)(a) while in prison. He is building pre-manufactured walls for homes and gaining experience in the building and construction industry. While in prison he has completed 9(2)(a) qualification and received a National certificate in 9(2)(a). He is currently completing a 9(2)(a) 9(2)(a)

[58] While in prison Mr Sroubek has gained a large number of certificates covering topics such as finance, health, family and personal development.

[59] When Mr Sroubek lived in the Czech Republic he worked for 9(2)(a) company as a manager. While in New Zealand he has professionally competed and represented New Zealand internationally in kickboxing, Muay Thai and K1. He then worked for a gym and later as a general manager for his company 18(c)(ii). This company was used by Mr Sroubek to import drugs.

[60] Mr Sroubek states 9(2)(a) 9(2)(a). He reports that he has two full-time job offers and one contract base offer for when he is released from prison. 9(2)(a) 9(2)(a)

#### Financial

[61] Mr Sroubek reports that 9(2)(a) 9(2)(a)

#### Health

[62] Mr Sroubek is in good physical health. No health issues were noted at residence.

#### Character

[63] Mr Sroubek has been convicted of the following three convictions in New Zealand:

Offence date	Offence	Sentence date	Sentence
11 August 2005	Operating a vehicle carelessly	12 October 2006	Fined \$100 and \$500 reparation
6 July 2012	Refused officer's request for blood specimen	24 January 2013	Fined \$200 and disqualified from driving for six months
17 September 2014	Importing a Class B controlled drug (MDMA)	3 June 2016	Five years and nine months' imprisonment

[64] Mr Sroubek's New Zealand police criminal record is tagged P.

[65] Mr Sroubek appears to be wanted by Police in the Czech Republic for his involvement in a murder in 2003 and for an outstanding sentence that has yet to be served.

[66] On 17 September 2018, Mr Sroubek appeared before the Parole Board in relation to his conviction and imprisonment for importing drugs. He was denied parole. He has also been denied parole in March 2018, when the Parole Board noted that Mr Sroubek has been assessed as being a low risk to re-offend. Mr Sroubek pleaded not guilty to the offence and was subsequently found guilty by a jury. He then lodged an appeal against that conviction with the Court of Appeal. His appeal was dismissed in December 2017. It is noted in the Parole Board decision that Mr Sroubek now acknowledges the offending and is aware of the harm that drugs cause in the community. A copy of the Parole Board's March 2018 decision is tagged Q. The September 2018 decision was not available at time of writing. Mr Sroubek's statutory release date is January 2022.

#### Effect of deportation

##### *Mr Sroubek*

[67] Mr Sroubek believes that there is a danger to his health and well-being, as well as unfair treatment by the Czech Police, which is still real and almost guaranteed. He goes on to list a number of ways he would not like to see himself die, with the implication being that the authorities would kill him while making it look like an accident. Mr Sroubek reports that he has no support in the Czech Republic and 9(2)(a) Mr Sroubek says that if he is deported it would be a death sentence and a very difficult way of rebuilding his life.

[68] Mr Sroubek says that if he is deported it would cause his entire family extreme hardship, financially as well as mentally. He says his family would not want him to return to the Czech Republic so would try and keep him away from the country "under all circumstances". Mr Sroubek states that he would not be able to financially support himself in any country he was to move to as he only has support in New Zealand. He states that he and his family have invested vast amounts of money and effort into his company and if he had to leave it would put that investment at risk.

[69] Mr Sroubek states that his wife is a New Zealand citizen and would not be able to leave all her friends and life here to travel to a country where 9(2)(a) 9(2)(a)

##### *Lawyer – Simon Laurent*

[70] Mr Laurent says that while Mr Sroubek cannot completely prove that he will be harmed if he returns to the Czech Republic it can be inferred based on the above evidence. He says that when the Minister considers Mr Sroubek's case he must weigh up the real risk that by ordering deportation, he may well be sending Mr Sroubek back to an environment dangerous to his personal safety, if not his life. Mr Laurent says this risk should be balanced against the significance of the false information provided by Mr Sroubek in order to gain residence nine years ago. He also says that weight should be given to the positive contribution Mr Sroubek has made to New Zealand.

[71] Along with his submission, Mr Laurent has provided the following supporting documents:

- Two CDs containing media reports;
- Sentencing notes of Justice Woodhouse dated 9 April 2014;
- Sentencing notes of Judge E M Thomas dated 3 June 2016;

- European Commission report on corruption;
- Czech Republic 2016 Human Rights report;
- Czech Republic 2017 Human Rights report;
- Czech Government Anti-Corruption Corruption Conception for the years 2015 to 2017;
- Article titled 'The fight for fair police practices in the Czech Republic';
- Companies Office documents relating to 18(c)(ii)
- Financial statement for 18(c)(ii)
- Photographs;
- A deposit from Mr Sroubek under the name Jan Antolik;
- Transcript of a media story about Mr Sroubek;
- Numerous media articles supporting Mr Sroubek's claims;
- Private investigators' report, likely from 2012; and
- Summary of Facts for 2011 Court case relating to the immigration charges.

[72] The supporting documents are tagged R.

*Letters of support*

[73] 9(2)(a) has provided a letter in support of her husband.<sup>2</sup> She says that her husband is a supporting and caring person to his friends, family and people in need. She says that her husband's conviction and imprisonment has taken a toll on their relationship, and while they are not currently together, she provides him with financial and mental support. 9(2)(a) does not approve of her husband's past actions and knows that he is extremely ashamed of them.

[74] 9(2)(a) says that her husband loves New Zealand and calls it home. She says there is nothing waiting for him in the Czech Republic. He has told her in the past that he fears the corruption in his home country and he will face extreme hardship if he were to return. 9(2)(a) letter is tagged S.

[75] Mr Sroubek's parents have provided a letter in support of their son. They say that their son was forced to leave his home country to save his life. They say that the person that committed the crime in the Czech Republic and two Police officers have threatened to shoot their son. Mr Sroubek's parents say that they still are afraid of his future and that since the Czech authorities learnt that he is in New Zealand they have not ceased their efforts for his deportation back to the Czech Republic.

[76] Mr Sroubek's parents say that the idea that their son may have to return to his home country is scary for them and for him. 6(d) & 9(2)(a)

[77] Mr Sroubek's parents say 9(2)(a)

9(2)(a) Mr Sroubek's parents ask that their son be allowed to remain in New Zealand. Their letter is tagged T.

[78] Letters of support from Mr Sroubek's friends, business associates and fellow sports people have been provided. They talk about Mr Sroubek's good character, how he is a kind, generous and caring person. They talk about his successful business in New Zealand and the charity work he does.

<sup>2</sup> 9(2)(a) refers to her husband as Jan Antolik in her letter.

The letters mention that he is a family man and discuss his positive relationship with his wife. The letters of support are tagged U.

#### **International obligations**

[79] In making this decision, you must consider New Zealand's international obligations, for example those relating to the best interests of any child.<sup>3</sup> You have been briefed on the role of international obligations in decision-making on immigration-related matters.

#### **Role of decision maker and your options**

[80] Your role is to consider the matters set out in this report and determine whether deportation should proceed. In making this decision you should weigh the competing interests of the client (including their family) and the State. In doing so, greater weight will be given to some factors than to others.

#### *Insufficient grounds to determine*

[81] If after reading this report you consider there are insufficient grounds to determine that Mr Sroubek holds a visa under a false identity, then he is not liable for deportation under section 156 and you should sign the no-determination letter. Doing so would not prevent this case being reconsidered if further relevant information became available. He will however, remain liable for deportation under section 161.

#### *Confirming deportation liability*

[82] If you decide that deportation should proceed, and deportation is eventually effected, Mr Sroubek will be permanently barred from returning to New Zealand unless the Minister of Immigration or the Immigration and Protection Tribunal removes or reduces the period of prohibition on entry. If you decide on deportation, please sign all copies of the deportation liability notice.

#### *Cancelling deportation liability*

[83] Pursuant to section 172(1) of the Act, you have absolute discretion to cancel the liability for deportation. Merely cancelling deportation liability would, however, mean that Mr Sroubek would continue to hold a residence class visa under a false identity – a result contrary to the intent of the Act which could also cause problems for him in the future. It is therefore recommended that if you decide on cancellation, you also grant Mr Sroubek a new residence class visa under his true identity. If you decide on this course, please sign the deportation liability cancellation letter.

#### *Suspending deportation liability*

[84] Pursuant to section 172(2) of the Act, you have absolute discretion to suspend the liability for deportation for a period of up to five years. The suspension period would be subject to certain conditions; if these were breached, you would have the option to reactivate the deportation liability. If the conditions were not breached during the suspension period, you would be required to cancel the liability for deportation at the end of the suspension period.

[85] Suspending deportation liability in this case would be problematic: doing so would mean that Mr Sroubek would continue to hold a residence class visa under a false identity.

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<sup>3</sup> Art 3(1) of the Convention on the Rights of the Child provides that "in all actions concerning children...the best interests of the child shall be a primary consideration".

[86] If you wish to give Mr Sroubek a chance to remain in New Zealand, but subject to conditions of the kind normally imposed on a suspension period, you may grant him a new residence class visa in his true identity and impose conditions on it under section 50(1) of the Act. If you decide on this course, please sign the conditional-residence letter.

[87] You may decide to impose conditions other than those in the attached conditional-residence letter. If so, please provide your instructions in the *Record of decision* section below and return the file to Immigration Resolutions so a new letter can be drafted.

[88] Neither granting a further visa nor cancelling the liability for deportation on this occasion would prevent Mr Sroubek from becoming liable for deportation for a different reason in the future.

Prepared by  
Angela Vinsen  
Immigration Resolutions  
Immigration New Zealand

For  
Hon Iain Lees-Galloway  
Minister of Immigration

18 September 2018



## RECORD OF DECISION

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### *Criminal convictions only*

If you consider there are insufficient grounds to determine that Karel Sroubek holds a visa under a false identity, then he is not liable for deportation under section 156(1)(b) but remains liable under section 161(1)(c). If so, your options contained in FOLDER 1 are:

- A. Decide that deportation should proceed under section 161 only.  
*Sign both copies of the deportation liability notice.*
- B. Cancel deportation liability (section 161).  
*Sign the cancellation letter.*
- C. Decide that the deportation liability (section 161) will be suspended for five (5) years.  
*Sign both copies of the deportation liability notice, plus the suspension letter.*

### *Criminal convictions and false identity*

If you have determined that Karel Sroubek holds a visa under a false identity, then he will be liable for deportation under sections 156(1)(b) and 161(1)(c), and your options contained in FOLDER 2 are:

- D. Decide that deportation should proceed under both sections.  
*Sign all four copies of the deportation liability notice under section 161 and 156.*
- E. Cancel deportation liability and grant him a resident visa in his true identity.  
*Sign the cancellation letter.*
- F. Decide that a resident visa should be granted in his true identity, subject to the conditions in the conditional-residence letter.  
*Sign the conditional-residence letter.*

*You are free to impose suspension conditions other than those presented*

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*Please sign:*



Hon Iain Lees-Galloway  
Minister of Immigration

Date: 19/09/18

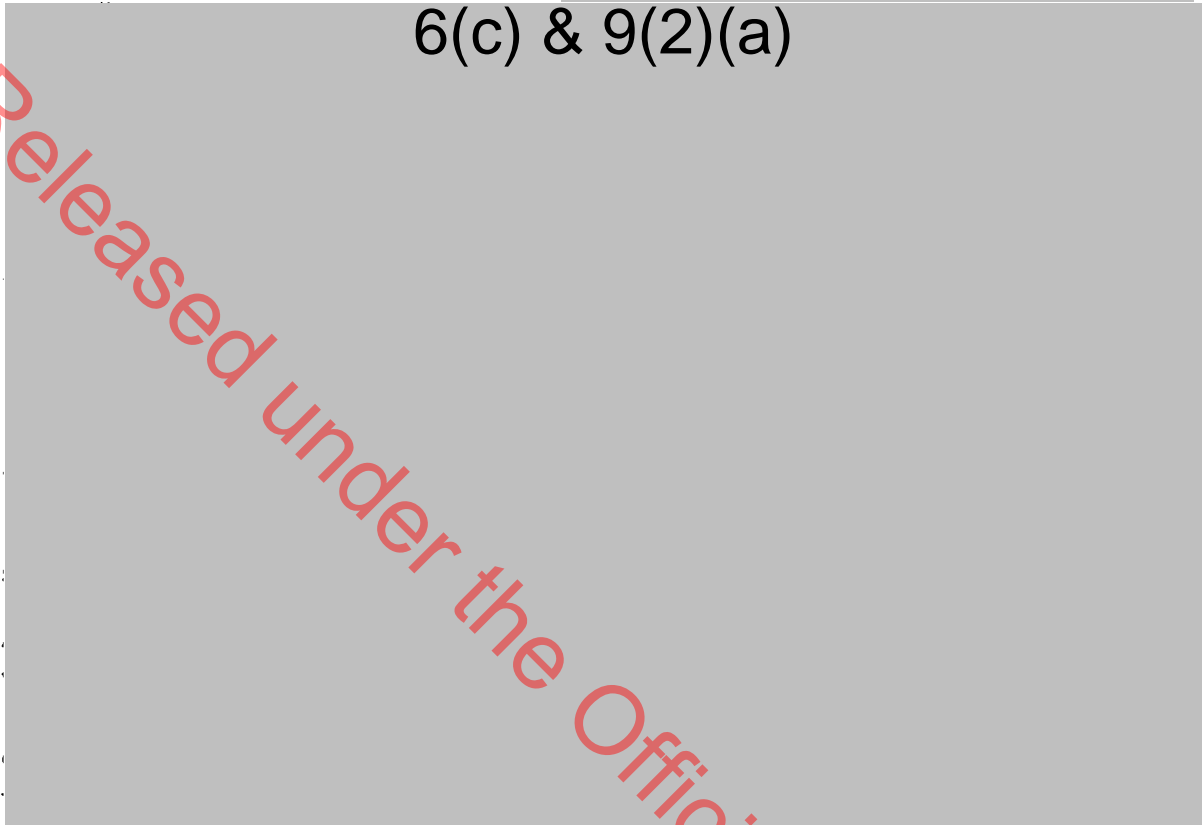
**Affidavit**

**A**

My name is Jan Antolík, I give this testimony for

6(c) & 9(2)(a)

6(c) & 9(2)(a)



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9(2)(a) 28th March 2011

Jan Antolík

Signature

This is the untranslated version of the  
previous document

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AFFIDAVIT

4

My name is Jan Antolik. I am giving [redacted] 6(c) & 9(2)(a)

6(c) & 9(2)(a)



Released under the Official Information Act

[redacted] 9(2)(a) on March 28<sup>th</sup>, 2011

Jan Antolik

*Illegible signature*



LL022261

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Interpreter's Clause

As an official interpreter of English, appointed by the Regional Court in Prague on 9(2)(a), as recorded in file No. 9(2)(a), **I hereby certify that the present English translation corresponds to the original Czech text of the attached document.**

Recorded in the book of certified translations under the no. 230/110/2011

Dated on August 10<sup>th</sup>, 2011

9(2)(a)



300

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Scanned  
and sent  
20/07/16

B

**ORDER PROHIBITING PUBLICATION OF THE DEFENDANT'S NAME,  
COMPANY NAME AND BRANDS PURSUANT TO S 200 CRIMINAL  
PROCEDURE ACT 2011.**

**ORDER PROHIBITING PUBLICATION OF NAME, ADDRESS,  
OCCUPATION OR IDENTIFYING PARTICULARS OF THE DEFENDANT'S  
MOTHER AND HER TESTIMONY  
PURSUANT TO S 202 CRIMINAL PROCEDURE ACT 2011.**

**IN THE DISTRICT COURT  
AT AUCKLAND**

**CRI-2014-004-009585  
[2016] NZDC 10561**

**THE QUEEN**

v

**JAN ANTOLIK**

Hearing: 3 June 2016  
Appearances: R McCoubrey for the Crown  
D Jones QC for the Defendant  
Judgment: 3 June 2016

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**NOTES OF JUDGE E M THOMAS ON SENTENCING**

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- A. Sentenced to five years nine months' imprisonment.
  - B. Order for destruction of the Ecstasy found in shipping container and wardrobe.
  - C. Order prohibiting publication of defendant's name, company name and brands pursuant to s 200 Criminal Procedure Act 2011.
  - D. Order prohibiting publication of name, address, occupation or identifying particulars of the defendant's mother and her testimony pursuant to s 202 Criminal Procedure Act 2011.
- 

Released under the Official Information Act

## REASONS

### **The shipment and its aftermath**

[1] Mr Antolik, for some years since you arrived in New Zealand you operated a business known as 18(c)(ii). The business imported beverages and sold them at the wholesale level in New Zealand. Of particular note are two. The first was a product marketed in New Zealand as 18(c)(ii) which was a fruit juice you imported from Europe. The second, which becomes material for the purposes of name suppression, is 18(c)(ii) a 18(c)(ii) that your business imported from 18(c)(ii).

[2] The business simply involved arranging shipments of those products, clearing them through Customs and arranging sales to various customers. There are two in particular, two large supermarket chains, who between them took most of your stock.

[3] Over the years you built the business up into a fairly profitable one and, as we heard during your trial, its annual turnover approached something in the region of a million dollars. There is no question that it was a successful business. There is no question that you were the driving force and the vision and the impetus behind all of it.

[4] One of the shipments, though, was stopped by Customs. It contained close to five kilograms of Ecstasy. The Ecstasy was hidden in packets of juice imported by your company. The only items in the container were juice imported by your company.

[5] The shipment had its origin in Europe. It stopped at various places, including Singapore, on the way to New Zealand. The evidence at trial established that it did originate in Europe and that was the likely point at which the Ecstasy was introduced into the containers. It had been packed into a handful of individual one-litre cartons, themselves packed within boxes containing a number of cartons and themselves packed on pallets and placed into the shipping container. Only a very thorough inspection would have revealed them.

[6] Customs became interested in the shipment. You had been sent, through the mail, a car buffer machine. It had been described as such. It was checked by Customs officials. Hidden within it were shipping container bolts. The significance of the shipping container bolts are that both of them, but one in particular, bore markings and a number strikingly similar to that on the shipping container which later arrived in Auckland.

[7] You took possession of the car buffing machine. You opened it and retrieved the bolts. You were found in possession of one of them upon termination. You were in fact found close to the container terminal itself upon termination. You never got a chance to use the bolt and there was not any evidence that you ever tried to. You would not have been able to, given that the container was under the close custody of Customs at all times once it had arrived in New Zealand.

[8] The only available inference I can draw from the container bolt evidence though is that it would have allowed the person who had that bolt to access the container, to re-seal it and possibly escape detection. That becomes material because you dispute what the Crown can say about your role in all of this.

[9] You were charged with importing Ecstasy. As I said, just under five kilograms at 71 percent purity. You defended the charge, it went to trial. You were found guilty.

Name suppression - 18(c)(ii)

18(c)(ii)

18(c)(ii)

18(c)(ii)

The Crown does not oppose continued name suppression in respect of your mother and her testimony. I make an order for permanent suppression both of her name and of the testimony that she gave during the trial.

**Name suppression- - defendant and his business/brands**

[12] The second application for suppression is of your name, of the name of your company 18(c)(ii) and the name of its brands, 18(c)(ii). That application the Crown opposes.

[13] There are two steps that you must take before you are able to satisfy me that I should suppress the names of any of those entities and brands. The first is that you must satisfy me on a balance of probabilities that there is an appreciable risk that you, or those connected to you, would suffer extreme hardship if there was publication. Secondly, if you are able to satisfy me of that I must consider whether, nevertheless, the public interest in open reporting should prevail over that extreme hardship.

***Have you met the necessary threshold?***

[14] Publication of your name would lead to an inevitable association with 18(c)(ii) 18(c)(ii) and its products 18(c)(ii) in the eyes of your customers. As the Crown has said, you are the face and the driving force of the business, you are that company. You obtained the product but you also negotiated contracts with the customers involved. Publication, inevitably, of your name would significantly affect the business. Obviously publication of the company's name and its products would significantly affect the business.

[15] The evidence does not establish that the business would fail or that there is an appreciable risk that the business would fail. But I am satisfied that it establishes an appreciable risk that your two largest customers and the backbone of your company would turn their backs on 18(c)(ii).



[16] You argue that that, then, would cause you extreme hardship first of all. I am not satisfied that it would. Your position with the company as a, officially at the moment, senior employee would always be safe so long as the company traded. In the event that it could not and you were forced to sell it, even without your two largest companies, 9(2)(a) values the business at \$1.4 million. If it was able to realise anything like that, then obviously you would be in a strong position to pursue other business interests.

[17] 9(2)(a) also has given evidence about your other business interests, including the energies that you and she are both putting into property development and property investment. I need not name the company but we referred to it during the trial and that remains a viable and unaffected business.

[18] In fairness, you do not bring this application based so much on extreme hardship to you. You instead focus on the effect on innocent third parties. The evidence establishes an appreciable risk that they would suffer. The Crown does not challenge that.

[19] These innocent third parties include investors who have put a substantial amount of money into your business. But it also includes employees who would face, inevitably, the prospect of a restructure and job loss. Both the investors and the employees are connected persons contemplated by s 200(2)(a) Criminal Procedure Act 2011. I am satisfied that there is a real risk that innocent third parties, particularly the employees, would suffer extreme hardship.

[20] The Crown relies, fairly, on a case of the High Court, *SH & Ors v R*<sup>1</sup>. Traditionally, and fairly, the Courts have had little sympathy for the financial consequences of somebody who offends in the way that you have, the impact on their business and what it would mean for those who have put their money into it. But that case can be distinguished on the basis of the factual finding in that case, that publication would not have had the claimed economic impact on the businesses concerned. Here I am satisfied that publication would, or that there is appreciable

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<sup>1</sup> [2015] NZHC 1505

risk of it, given the inextricable connection between you and the company and its very limited client base.

***Should I order suppression?***

[21] Overriding everything is the public interest in the openness of Court reporting. It is fundamental to a democracy and our system of justice that everything happens in public. That if people offend, everybody gets to hear about it. There are very few times when a Court would rule against that.

[22] If you use your business as a cover to import drugs, many would consider protecting that business if you are convicted an affront to justice and to common sense. However, I cannot here ignore the plight of innocent third parties, particularly those who might lose their jobs. In the current economic climate they might rightly have little confidence in securing another.

[23] Again the Crown relies fairly, again, on *SH & Ors v R*. However, among the reasons given for refusing suppression in that case was that of the victim of the offending wishing to speak out against sexual violence. That is a factor that understandably weighed heavily in that particular case. In the end I need to balance the factors specific to this case against the public interest and openness of reporting. Admittedly by a very narrow margin, I am prepared to order suppression.

***Result - suppression***

[24] There will, then, be permanent suppression of your name, the name of your company 18(c)(ii), the names of the company's brands 18(c)(ii).

***Sentencing starting point***

[25] This was a one-off shipment. It is important to see that in the context of the Customs investigation as a whole. Rightly, they looked closely at the shipment that followed. It was clean. There is no suggestion that there were any other shipments before this one. In other words the measure of your culpability, the measure of the

sophistication or complexity of this particular importation or this operation, is limited to this one shipment alone.

[26] Yes, it involved a significant amount. Yes, it involved organisation and planning and for those reasons there inevitably would be a stern response. But on the other hand I have to balance this somewhere on the scale of complexity and planning and sophistication of drug operations generally. There are many that are repeated. There are many that have elements of planning and sophistication that go far beyond what we know of this importation.

[27] In truth, we know very little about it. The evidence at trial was able to establish that there were drugs in the container. It was able to establish to the jury's satisfaction that you would have known of that. That you would have had some role in them being there.

[28] The evidence was not able to establish what steps you or anyone else took to place them in the container. The evidence was not able to establish whose idea it all was. The evidence was not able to establish who was to be solely responsible for its distribution in New Zealand and in what form and to whom.

[29] Admittedly, there are often cases where that evidence is not available and the Crown can fairly say that it is open to me to infer that, in the absence of that evidence, you were largely responsible for everything. But your circumstances are a little remarkable because they go back a long way. They go back to established connections with underworld figures in the Czech Republic. There is no suggestion that you yourself were involved in those activities. But you left under a cloud. You left to avoid potentially serious consequences for you at the hands of those underworld figures. The Crown in other proceedings in other Courts has accepted that that is your history and that that is your situation.

[30] In those circumstances there are several possibilities that might exist as to how it came to be that you were importing Ecstasy. There are several possibilities as to who might be the driving force, who might have something to gain, who might have leverage. In those circumstances I think there is some force in Mr Jones'

submissions that I should not rely on the absence of evidence to draw an inference adverse to you.

[31] There were enquiries that were available to Customs. They did not take them. They did not need to, to prove the case against you. But I should give you the benefit of the doubt of evidence that is not there in this particular case.

[32] So I cannot say that you were the mastermind, or that you were at the top of this tree. However, I do draw this irresistible inference from the evidence. You were prepared to use your business as a front. You were prepared to risk your business, a valuable, successful business, your anchor here in New Zealand, to do that. You would have only done so if you were expecting a significant return or share in the return. You were, by any measure, more than a mere catcher.

[33] Much has been said about the potential yield of the Ecstasy that was found and this is one of the measures of culpability. However, again I must give you the benefit of the doubt in terms of yield. We do not know how the Ecstasy was going to be distributed, in what quantities, at what purity, to whom and for what amounts. There are different measures available depending on whether pills are sold at street level or at wholesale level, what strength they are. Again, in those circumstances I give you the benefit of the doubt and I draw little from the values that have been put forward. In this case I am more interested in the quantity that was actually brought in.

[34] That was a significant amount of Ecstasy to come into New Zealand. As you have heard the Crown say, people have received terms of imprisonment of eight years and above purely based on the amount that has come in, quite apart from any other hallmarks of planning or sophistication or ongoing operations.

[35] The starting point for a sentence lies in a case called *R v Wallace and Christie*.<sup>2</sup> In that case the Court of Appeal looked at various categories of offending and gave guidelines as to the sort of starting points that a Court might hand down for offending of this type. Those are not guidelines that are strictly applied now. Instead

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<sup>2</sup> [1999] 3 NZLR 159

we need to look to those guidelines, consider the circumstances of individual cases and come to an assessment based on those circumstances against the comments in *R v Wallace and Christie*. Both sides have referred to a number of cases. In truth, the sentences vary and they depend heavily on the individual circumstances of a particular offender, a particular operation.

[36] I consider your offending to fall within the second category of offending described in *R v Wallace and Christie*. I consider looking at the other cases as well that both parties have referred to, that it falls in the middle of that category and I take a starting point then of six and a half years' imprisonment.

#### **Discounts**

[37] You are highly regarded by many in the community. You have successfully created and operated a business. You have contributed in many ways to the community. You have no relevant previous convictions. You have, it seems, applied yourself hard to your work and to your sport. You have represented New Zealand. You have trained others. You have mentored others, often for no payment. You are spoken of very highly by those who have filed different character references on your behalf. For all of that I discount your sentence by nine months.

#### **Result**

[38] I sentence you then to five years nine months' imprisonment.

[39] I make orders for destruction of the Ecstasy that was found in the shipping container and which was also found in your wardrobe.

[40] The Crown offers no evidence on the one remaining charge of possession of Ecstasy simpliciter and that charge is dismissed.



E M Thomas  
District Court Judge

# CERTIFIED COPY OR EXTRACT OF THE PERMANENT COURT RECORD

Rule 7.1(9) Criminal Procedure Rules 2012

Extract from the permanent court record of proceedings in the District Court at Auckland:

PROSECUTING AGENCY Police Department	NAME Jan ANTOLIK	ADDRESS [REDACTED] 9(2)(a)	OCCUPATION Managing Director	DOB 20 February 1981	COUNSEL David Jones QC
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CRN	OFFENCE	DATE OF HEARING	PLEA	DECISION	WARNING
14004011140	On or about the 17 <sup>th</sup> September 2014 did import into New Zealand a Class B controlled drug, namely MDMA.  <b>Misuse of Drugs Act 1975 Section 6(1)(a) and 2</b>	03 June 16	Not Guilty	Convicted and Sentenced  Imprisonment 5 years and 9 months  Order for Destruction	

Thomas Evangelos DCJ  
District Court Judge

I, Clare Neville, Deputy Registrar of the District Court certify that the above is a true copy or extract of the permanent court record.

Given under my hand and the seal of the District Court New Zealand this 20th day of March 2018.



  
 Clare Neville  
 Deputy Registrar

C





# Provision of Advice to Courts

<b>Date</b>	01/06/2016	<b>PRN/DlicNo</b>	9(2)(a)		
<b>Name</b>	ANTOLIK, Jan	<b>Date of Birth</b>	20/02/1981	<b>Age</b>	35
<b>Address</b>	9(2)(a)				
<b>Ethnicity</b>	Czech				
<b>Iwi</b>	Hapu				
<b>Counsel</b>	OWVER				
<b>Sentencing Indication</b>	9(2)(a)				
<b>Judicial Indication</b>					
<b>Comment</b>					
<b>Sentencing Court</b>	AUCKLAND DISTRICT COURT				
<b>Sentencing Date</b>	03/06/2016				
<b>Offences</b>	IMPORT/EXPORT - ECSTASY				

**Key Considerations**

Mr Antolik was unable to be interviewed for this pre- sentence report as noted in the attached memorandum report. The information in this pre- sentence report was obtained from Community Probation records dated 2014.

Mr Antolik appears for sentencing after being found guilty of an indictable offence of Importing a Class B controlled Drug, which occurred on 17th September 2014.

9(2)(a)

Given this is his first serious drug offending and it dates back to 2014 he is assessed at a low risk of reoffending. He is assessed also at low risk of causing harm to others as he has no violent offences.

Mr Antolik has not been subject to community based sentences in the past, other than monetary penalties. He has two previous convictions in 2006 and in 2013, for driving matters. 9(2)(a)

9(2)(a)

**Recommendation**

9(2)(a)

Probation Officer

9(2)(a)

Service Centre

North Shore

Identified	Offending-Related Factors
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**Domestic and Cultural Circumstances**

9(2)(a)

### Relationships

Mr Antolik is a 35-year-old male, born in Prague and raised in [REDACTED] 9(2)(a)  
[REDACTED] 9(2)(a)

In 2003 Mr Antolik arrived in New Zealand and he is now a New Zealand resident.  
[REDACTED] 9(2)(a) [REDACTED] 9(2)(a)

He related that he has no family here [REDACTED] 9(2)(a)

### Income, Work Skills and Education

In terms of employment, Mr Antolik informed that he worked for his parents in their [REDACTED] 9(2)(a)

Evidently over the past seven years he has been the managing director of [REDACTED] 18(c)(ii) Ltd which imports, distributes and manufactures fruit beverages to [REDACTED] 18(c)(ii) nationwide. [REDACTED] 9(2)(a) [REDACTED] 9(2)(a)

During the time that he has lived in New Zealand, Mr Antolik has achieved numerous personal and professional goals. Apparently he has represented New Zealand in the arena of Muay Thai kick boxing as he has been involved in this sport for the past 20 years.

### Sources of Information

Community Probation records dated 2014.  
Combined Traffic Criminal list

**Recommendation**

9(2)(a)

**Sentence Comment**

9(2)(a)

Released under the Official Information Act



[1] Following a trial by jury in the District Court at Auckland Jan Antolik was found guilty of importing five kilograms of the class B controlled drug MDMA (commonly known as ecstasy). The MDMA was concealed in cartons of fruit juice imported from the Czech Republic in a shipping container that arrived in New Zealand in September 2014. Mr Antolik was convicted and sentenced by Judge Thomas to five years and nine months' imprisonment.<sup>1</sup>

[2] Mr Antolik appeals against his conviction on the grounds that the jury's verdict was unreasonable and a miscarriage of justice has occurred. He claims that the investigation carried out by Customs and Police was inadequate and led to late disclosure and errors in the Crown evidence. Mr Antolik contends that this resulted in the onus of proof effectively being reversed. He argues that proper enquiries would have revealed the reasonable possibility that someone put the drugs in the container without his knowledge in order to frame him. Mr Antolik applies to adduce further evidence from a private investigator in the Czech Republic. He contends that this further evidence fills some of the gaps the Crown ought to have addressed in its own investigations and supports his claim that he was framed.

[3] In order to understand Mr Antolik's criticisms and the potential significance of the further evidence he wishes to introduce, it is necessary to review the relevant facts in a little detail. We start by summarising the facts surrounding the drug importation before setting out the circumstances relied on by Mr Antolik to support his contention that he was framed. This will set the context against which both the appeal and the application to adduce further evidence must be considered.

#### **The facts**

[4] Mr Antolik is 36 years of age. His real name is Karel Sroubek. He was born in the Czech Republic and came to New Zealand under his assumed name of Jan Antolik when he was in his early twenties. The circumstances in which Mr Antolik changed his name and came to New Zealand are relevant to one of the possible framing scenarios he advanced. However, it will be convenient to detail those circumstances later.

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<sup>1</sup> *R v Antolik* [2016] NZDC 10561.



*Distribution agreement with Maspex*

[5] In August 2008 Mr Antolik and his wife formed R Ltd.<sup>2</sup> Mr Antolik explained at the trial that he chose this name because it was the brand name of a fruit juice manufactured by Maspex Czech (Maspex) in the Czech Republic. However, his company did not commence importing juice from Maspex until January 2010 when it entered into a distribution agreement with that company.

[6] This distribution agreement was terminated one year later, in January 2011. Mr Antolik explained that he terminated the agreement because Maspex wanted to change the brand name of the juice to “Tymbark”, the name of a village in Poland where Maspex has its head office. Mr Antolik said that this name was not suitable for the English-speaking market he was supplying. He says that his company has not imported any further Maspex products since that time for that reason. Nevertheless, it appears that Maspex continued to market fruit juice under the R brand name after this date because the MDMA was found concealed in R-branded fruit juice cartons in September 2014.

*Distribution agreement with Linea Nivnice*

[7] Mr Antolik’s mother lives in the Czech Republic and acted as the Czech agent for Mr Antolik’s company.<sup>3</sup> She operates under the business name “AGS Studio”. Following termination of the agreement with Maspex, she entered into an agreement on behalf of R Ltd with another juice supplier in the Czech Republic, Linea Nivnice (Linea), which supplies juice under the N brand.<sup>4</sup> She also contracted with Tetra Pak to supply the N-branded packaging to Linea which then filled the cartons with juice. The juice would then be packed in shipping containers for collection by a transport company. The transport and shipments to New Zealand were arranged by CS Cargo, a major freight company in Central Europe.

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<sup>2</sup> The name of this company was suppressed by order of Judge Thomas in the District Court (*R v Antolik*, above n 1, at [24]) and this order was confirmed by Duffy J on appeal to the High Court (*Solicitor-General v Antolik* [2016] NZHC 2643 at [67]). This Court declined leave to appeal: *A (CA605/2016) v R* [2017] NZCA 49.

<sup>3</sup> Judge Thomas also suppressed the name and testimony of Mr Antolik’s mother: *R v Antolik*, above n 1, at [11].

<sup>4</sup> The name of this brand is also suppressed: *R v Antolik*, above n 1, at [24].

*Store Rite Logistics*

[8] Following clearance by Customs, containers imported by R Ltd were transported by Mainfreight International Ltd (Mainfreight) to the warehouse of Store Rite Logistics Ltd (Store Rite) in East Tamaki, Auckland. Store Rite personnel would remove the container seal with bolt cutters, open the container and unload the product. Any inspection required by the Ministry for Primary Industries would be carried out at this time. The product would then be distributed to customers, including supermarkets.

*Container shipment — September 2014*

[9] In July 2014 Mr Antolik's mother arranged with CS Cargo for a shipping container loaded with juice to be sent from Linea's premises to R Ltd in Auckland. The container was loaded by Linea personnel. CS Cargo arranged for a truck to collect the container and it left the Czech Republic on 28 July 2014. The container arrived at the port of Tauranga on 17 September 2014.

*Vertex Property Investments Ltd*

[10] In February 2011, following the change from importing R-branded juice from Maspex to N-branded juice from Linea, Mr Antolik incorporated N Trading Ltd.<sup>5</sup> He changed the name of this company to Vertex Property Investments Ltd (Vertex) in June 2014. He said he did this because he was investigating a new business venture to import into New Zealand prefabricated walls for use in the construction of houses. These walls were manufactured in the Czech Republic. Mr Antolik said he opened a bank account for this company and obtained GST registration for it in August 2014. Vertex signed an exclusive distribution agreement with the manufacturer, HK-Drestav, on 15 September 2014.

[11] On 5 September 2014 Mr Antolik opened a separate post office box in Shortland Street, Auckland for Vertex (he already had a post office box in Shortland Street for R Ltd). Mr Antolik said he did this because he was expecting to

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<sup>5</sup> The name of this company is also suppressed: *R v Antolik*, above n 1, at [24].