

Katarzyna Stadnicka, you plead guilty to trafficking in a controlled substance. Overnight on Monday 14 August 2017 you brought a Hyundai sedan from Melbourne to Devonport on the Spirit of Tasmania. On your arrival the police intercepted you and searched the car. They found sealed bags containing 25.6 grams of a brown paste containing methylamphetamine and pseudoephedrine or ephedrine, and 19.6 grams of crystalline methylamphetamine. Although the paste would have required further processing to put into crystalline form, the drugs together were worth something up to \$45,000 calculated on the basis that it was sold in quantities of 0.1 of a gram. The police also found \$800 in cash together with four mobile phones and a notebook with a tick sheet all evidencing other drug related transactions.

When interviewed by the police after your arrest, you admitted that the backpack in which the items were found was yours but you denied knowledge of the bags containing paste and any involvement with the sale of drugs. Your plea of guilty to trafficking involves the admission that you intended to sell some of the drugs in your possession, although part was for your personal use. You are not to be sentenced for the other drug transactions shown in the tick sheet and phones because they do not form part of the trafficking alleged by the State, but they make clear that the proposed sales of the drugs in your possession were not isolated incidents or out of character.

You are now aged 32. You have two sons, one now aged 7 and the other 6 months. You are currently in a relationship with the father of your youngest son. You were born in Poland but migrated to Australia with your family when you were about 10. You were unhappy about the move and it, combined with your strict upbringing, caused you to rebel by running away at age 13. Thereafter you lived independently but regrettably you began to heavily abuse illicit drugs of all types. You resorted to criminal behaviour and associated with persons also involved with drugs and crime. Your oldest child was born in 2013 but removed from your care due to your drug problem. He is now in the full time care of your parents. Your criminal record is an important factor in sentencing. It involves dishonesty and drug offences and is contributed to by your long term abuse of illicit drugs. In 2013 you were given community service for offences including aggravated burglary and selling a controlled drug. In 2014 you were given a two month suspended sentence for possessing a controlled drug and breaching bail. You breached that suspended sentence by committing a number of offences over the following months, mostly for dishonesty but also one count of selling a controlled drug, and in March 2015 you were ordered to serve a four month sentence. On 12 August 2016 you pleaded guilty to serious offences of dishonesty committed on 14 October 2014. On that occasion you and others committed a planned burglary of a residential and business complex in central Launceston, stealing items of considerable value and causing much damage. I was the sentencing judge. I was told that the crime was motivated by addiction to drugs, but that the term of imprisonment which you served between the crime and the sentence had led you to cease using drugs and disassociate yourself from bad influences. You were sentenced to imprisonment for eight months, wholly suspended for two years. You moved to Western Australia with someone I was told was a responsible partner. That did not last long. By May 2017 your marriage had broken down and you came back to Tasmania. You had no money and you moved in with others who were involved with drugs. This crime was committed in August 2017, by which time you had already been selling drugs and were again abusing methylamphetamine. Your counsel submitted on your behalf that I should consider a drug treatment order. However, I declined to have your suitability assessed because you accept that

you have not used drugs since you were apprehended, now over two and a half years ago. Assuming that to be true, it cannot be said that a drug treatment order is an appropriate response.

It has frequently been said in this court that those who traffic in illicit drugs should expect harsh punishment. Ice, in particular, is highly addictive and damaging to health. It causes great harm to those who become addicted to it and the people around them. Its use and trade generates a great deal of other criminal activity, especially serious crimes of dishonesty and violence, some of which are seen by this Court but many of which go unseen. The offences of dishonesty for which you have previously been sentenced are a good example. While you have no prior convictions for trafficking, you have two prior convictions for selling drugs. You must have known that, by offending as you did while subject to a suspended sentence, you would be at serious risk of going to prison. I must activate that sentence unless it is unjust. There are strong reasons why such a finding should not be made. You committed a serious crime for the reasons I have explained. You failed to take advantage of the leniency which was extended to you on the last occasion you were sentenced, by committing another offence about a year after the sentence was imposed.

However, even so, I have concluded that, in light of your current personal circumstances, it would be unjust to activate the sentence or send you to prison for the crime for which you are now to be sentenced. The crime for which the suspended sentence was imposed was committed almost six years ago. As I have already mentioned, both your counsel and the report I ordered as to your suitability for a home detention order, indicate that you have not used drugs in the period of two and a half years or so since the new crime was committed. You have not re-offended since then. All of your crimes were directly related to drug use. The steps you have taken to reform are confirmed by your mother, by a community service officer from Anglicare and by the child safety officer responsible for supervision of your care of your two children. If you can continue your rehabilitation the community will be well served. You have demonstrated a capacity for safe and informed parenting. You have sole care of your baby. You have frequent contact with your older son, and are working towards his return to your full time care. You have the support of your mother with whom you have a good relationship. Although the prison has a program which allows young dependent children to be housed within the prison, participation in the program depends on making a successful application. The prospects of success of such an application in your case are not presently known. I would consider that your separation from your youngest child, born almost two years after the crime for which you are to be sentenced was committed, would risk long-term and significant deleterious effects on the psychological makeup of the child. I think that this is one of the exceptional cases in which the possible effect on a member of your family, in this case your infant child, justifies lenience. Combined with that, despite my confidence that the corrections authorities will be taking every reasonable step to minimise the risk of exposure to the COVID-19 virus, sentences of actual imprisonment should be avoided unless no alternative is appropriate. You have been assessed as suitable for a home detention order. I have decided that it is appropriate to make such an order. I would otherwise have sent you to prison. Although a home detention order is less onerous and punitive than prison, it is still a significant restriction on your liberty and freedom of movement. You will be required to comply with stringent conditions. A home detention order may be for a maximum period of 18 months. I think that, in your case, taking into account the new crime and the suspended sentence, something near the maximum period is necessary. It is relevant to the length of the period that, if I had ordered prison, I would have ordered parole, and no question of parole arises here.

Katarzyna Stadnicka, you are convicted on the indictment. I am satisfied that the \$800 seized by the police on 14 August 2017 is tainted property and that no hardship will result from its forfeiture. I order, pursuant to the *Crime (Confiscation of Profits) Act* 1993, s 16(1) that the money is forfeited to the State. I am satisfied that activation of the suspended sentence is unjust. I will impose a substituted sentence, to take effect as part of a single sentence on the indictment and on the application. I make a home detention order. The operative period of the order is 15 months from today. I specify the premises at which you are to reside during the operational period of the order as [address] in Tasmania. I order that immediately upon your leaving court, which means by no later than 10.00 am tomorrow, you report to the office of Community Corrections at 111 Cameron Street Launceston, for induction into this order, and an explanation as to its full terms. The order will be subject to all of the core conditions set out in the *Sentencing Act* 1997, s 42AD(1). They will be set out in the order that you will be given but include that you will submit to electronic monitoring and must, during the operational period of the order, if directed to do so by a police officer, probation officer or prescribed officer, submit to a breath test, urine test, or other test, for the presence of an illicit drug. I specify that you must be at the home detention premises at all times unless for a relevant reason. In short, that means that you must be at those premises unless there is a need for urgent medical treatment, there is a serious risk of death or injury, or you already have the approval of a probation officer to be absent. It will be for the probation officer to determine what to approve so as to allow for employment, rehabilitation courses, child care or child contact or for any other purpose. The conditions will include that you not commit another offence punishable by imprisonment and that you comply with all directions given to you by your probation officer. I impose special conditions that:

- you must submit to the supervision of a probation officer as required by that officer;
- you must not take any illicit or prohibited substances. Illicit and prohibited substances include any controlled drug as defined by the *Misuse of Drugs Act* 2001, and any medication containing an opiate, benzodiazepine, bupropion, hydrochloride or pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication;
- you must submit to a medical, psychological, psychiatric or physical or mental health assessment or treatment as directed by a probation officer;
- you must maintain an active mobile phone service, provide the contact details to Community Corrections and be contactable at all times.

This order comes into effect immediately subject to your reporting to Community Corrections by no later than 10.00 am tomorrow. You must understand that if you do not comply with the conditions, imprisonment is likely. If you breach the order by committing another offence, the order must be cancelled unless there are exceptional circumstances, and in that case imprisonment would be highly likely.