

Benjamin Stebbeings, you were found guilty by a jury of one count of possessing a controlled plant. You were acquitted of charges of trafficking in a controlled substance between 2012 and 2016, possessing a thing intended for use in cultivation of a controlled plant for sale and dealing with property suspected of being proceeds of crime. Subject to what necessarily follows from the verdicts, it is my duty to determine the facts for sentence.

On 28 January 2016 the police searched the home in which you were then living at Hadspen. They found \$40,000 in cash in a linen cupboard. Their inquiries led them to a property then owned by your parents at Pateena Road near Longford, where you had built and were occupying a large steel shed. At one end of the shed was a workshop. At the other end was a self-contained residential living quarters. In between was a partitioned area containing eight very healthy cannabis plants being grown hydroponically. At trial you admitted that the plants were yours and that you had established the growing environment for them. It was a relatively sophisticated set up, including two 2x2 metre light proof grow tents, good quality lighting, ventilation, irrigation and nutrition systems and materials. It was uncontentional that much of that equipment, as well as other equipment stored within the shed, had been purchased second hand by you in 2010. It followed from the verdicts that the jury was not satisfied that you had grown the cannabis for a commercial purpose, that is, for sale by you or someone else. The jury must have been satisfied of the truth of your explanation for possession of the cash that you had accumulated the cash as part of the deposit for the planned purchase of the land on which the shed had been built from your parents.

You suffered an injury to your cervical spine in a motor vehicle accident in 2009. I find that, given the way in which the trial was conducted, it follows from the verdicts that the jury was satisfied that you grew the plants intending to use them for the production of cannabis oil for pain relief. You gave evidence that this was the second crop you had produced. You entered into an arrangement with another person that you would grow the plants from cuttings he supplied, and he would produce the cannabis oil which you would then divide. You asserted your belief that the variety of plant your associate provided contained the cannabinoid which gave pain relief, but not THC. The truth of that account is corroborated to some extent by the presence, in the refrigerator inside the shed, of containers of oil which, on analysis, contained no THC. I am satisfied I should sentence you on that basis. Although you went to a lot of time and trouble to cultivate the plants, and the plants were of high quality and very healthy, the number of plants was modest.

You are aged 39. You were fined for summary offences including cultivating and selling cannabis in 2008 and 2011. They are not particularly serious cases but make clear that you knew the risk of punishment you assumed by growing cannabis. Significant fines or imprisonment up to two years may be imposed for the offence of which you were found guilty. These proceedings have already had a significant impact on you and your defence was almost entirely vindicated. There has been a long delay not attributable to you. The stress of the charges contributed to the breakdown of your marriage. You lost your employment as manager of a caravan park. Your inability to pay your mortgage led to loss of the property you purchased, although it was purchased by your sister. On the other hand, you and others must also understand that, with heavily regulated exceptions, cultivation of cannabis in any form for any purpose is unlawful.

I am satisfied that a fine is the appropriate sentence. You are unable to pay a fine immediately, but arrangements can be made to pay it over time.

Benjamin Stebbeings, you are convicted of possessing a controlled plant contrary to the *Misuse of Drugs Act*, s 25. I order that the nine ballast boxes seized by police on 28 January 2016 are forfeited to the State. You are fined \$2,500. I may only allow 28 days to pay. If you require longer you may apply to enter into a repayment arrangement.