

STATE OF TASMANIA v VANESSA LEE WOLF
COMMENTS ON PASSING SENTENCE

28 SEPTEMBER 2020
GEASON J

Ms Wolf, you have pleaded guilty to trafficking in a controlled substance, contrary to s 12 of the *Misuse of Drugs Act* 2001, and to a charge of dealing with the proceeds of a crime, contrary to s 66A(s) of the *Crime (Confiscation of Profits) Act* 1993.

On 21 December 2019, the vehicle in which you were a passenger was intercepted on Cambridge Road at Warrane. You were searched. You gave police a purse containing a plastic snap lock bag containing 19.2 grams of crystal methylamphetamine.

In your handbag you had four small snap lock bags which contained a total of 7 grams of crystal methylamphetamine. The bags were packaged for sale: three bags in 1 gram deals and one bag contained 3.5 grams.

In a black purse there were two snap lock bags of crystal methylamphetamine containing 0.1 grams and 0.2 grams. Police also located a set of digital scales, two mobile phones, unused snap lock bags, a sim card, 1.2 grams of cocaine and some diazepam and Valium tablets. Police found \$3,920 in cash, asserted by the State to be the proceeds of the sale of methylamphetamine, and that is count 2 on the indictment.

In all, a trafficable quantity of 26.5 grams of crystal methylamphetamine was in your possession and packaged for sale.

Depending on the way the those drugs were sold, you could have received an income from sales of an amount between \$7,570 and \$26,500.

You were arrested and taken to the police station where you participated in an interview. Apart from agreeing that you were a passenger in a vehicle which police had intercepted, you made no comment in respect of the drugs and other property located and seized by police. You agreed however that your fingerprints and DNA would be found on those items.

You told police that \$2,000 of the \$3,920 in your possession was from your ex-partner, and was to be passed on to your daughter who was leaving for an overseas holiday. You also claimed that some of the money was derived from the sale of a motor vehicle on 16 December 2019. Those statements were untrue as you acknowledge by your plea of guilty.

You were uncertain of the quantity of drugs you had sold, and you declined to tell police whether you were selling to support your own habit or for profit. You gave police access to your mobile phone and examination of it revealed that you had been using the encrypted messaging App Wickr and Facebook Messenger to organise and facilitate the sale of Ice from at least 9 October 2019. Numerous messages on that phone revealed that you were selling for cash or on credit, and that you were offering it for sale in typical sale amounts. Some messages revealed that you were using another person to deliver the drugs you were selling. Your offending is driven by your own substance use, and at the time of these offences it was your view, I am told, that selling drugs was less risky than stealing to obtain them. You admitted being an Ice user and that you had used about 4 days before your arrest.

I turn to your personal circumstances. Yours is a background of physical and emotional abuse perpetrated upon you by your mother and stepfather, and sexual abuse perpetrated by your

grandfather. According to the pre-sentence report that abuse continued despite interventions from child safety officers. You were subjected to frequent physical punishment, and grew up in an environment where it was not safe to express your feelings or needs. You no longer have contact with your mother or stepfather.

You have used methylamphetamine since aged 26. You have described your use as a form of self-medication. That began, not just in the broader context of the childhood trauma that I have described, but the death of your baby at age three months. In the period soon after that occurred, your partner went to prison. You became isolated from your family after that. You describe the relationship which you had with your partner as one characterised by coercive control. In fact you have experienced violence in all three of your significant relationships.

After his imprisonment you were in financial difficulty. There was still a mortgage to be paid and you were working part-time at a restaurant in North Hobart, but not earning sufficient money to cover those repayments. It was in the context of those pressures that you were introduced to methylamphetamine and you appear to have relied upon it to cope.

I observe that there are two children from the relationship in which your partner was imprisoned. Those daughters are now in their 20's. I am told that you maintain contact with them and that the relationship is a good one. (I mention that at the request of your counsel in view of the misreporting of the status of that relationship in the newspaper report).

You have three younger children who are in care and with whom you have not had contact in recent times.

You have been in prison recently and have accessed therapeutic services there. You have been referred to an external provider of alcohol and drug rehabilitation services, and you have been offered a place in a program which is expected to commence soon. That program is able to offer you accommodation, and therapeutic and social support for up to 16 months. However the offered placement is only open to you for the next 8 weeks. I do not however ignore your personal resolve to rehabilitate and your willingness to commit to participation in an external program suggests to me that there are prospects for your rehabilitation.

At the same time there is a need to deter others from resorting to behaviour such as yours, whether to support their own drug habits or to profit from trafficking. The point is that it is through the process of trafficking that drugs are disseminated in the community, and people are introduced to them, and frequently embark upon their own journey of self-destruction. By your conduct you have contributed to others following in a similar path to you, and that is why the penalty which I impose today must punish you.

Recent sentencing in this Court indicates that for the offence of trafficking a term of imprisonment is considered an appropriate penalty. I note that in some circumstances that term of imprisonment has been wholly or partially suspended, particularly where an offender is offending at lower levels in the drug distribution chain or has not offended before. However you have had the benefit of suspended sentences previously. These have been breached. You were released on parole in March 2019 and these offences were committed whilst you were on parole, itself an aggravating matter and another example of your failing to take advantage of efforts to assist you.

You have a poor record of prior convictions. I have no doubt that those convictions are partly explained by your personal circumstances generally, and more particularly the trauma you suffered growing up, and your resorting to drugs to deal with some of those matters. Whilst you are not to be punished twice, that offending is relevant to the way that I have decided to proceed.

In summary, the sentence I impose is intended to punish you for disseminating drugs into the community, drugs that cause significant social problems and lead to more crime; and to deter others from doing what you have done, whilst not ignoring your stated desire to rehabilitate, and acknowledging the troubled and difficult background which has at least partially contributed to your becoming a user and involved in the drug scene. In sentencing you I take account of your plea of guilty and I afford you a discount of 15% of the sentence I would otherwise have imposed for the utilitarian benefit which accrues in consequence thereof.

The effect of the sentence that I impose today will be that you cannot take your place in the Velocity program. I observe again that you have failed before to take opportunities to address your drug issues, most recently in the context of your parole. Courts cannot keep accommodating those failures. There are consequences for such failures and this is one of them.

I will sentence you on the indictment.

Ms Wolf I convict you on both counts. I sentence you to 22 months' imprisonment. That sentence will commence on 1 September 2020 to take account of time spent in custody. I have decided not to suspend any part of that sentence. Whilst a suspended sentence can have a deterrent affect, in your case with past breaches of such sentences, I do not consider the approach to be at all efficacious in producing the intended result. It will be through the parole system that you will be supported on your release and provided an opportunity to demonstrate your commitment to rehabilitation. In that respect I impose a non-parole period of 12 months. The Parole Board will be best placed to determine the conditions which attach to your release when they consider any application you make for parole, and I am certain that they will take into account your desire to access rehabilitation.

I make the orders sought by the State with respect to the forfeiture of property. I grant the State's application pursuant to s 11(1)(a) of the *Crime (Confiscation of Profits) Act* for an order pursuant to s 16 of the Act of the \$3,920 seized by Tasmania Police be forfeited to the State on the basis that it is tainted property being the proceeds of drug sales. I grant the State's application pursuant to s 38 of the *Misuse of Drugs Act* that the following items be forfeited to the Crown, and they are the items appearing on the property seizure record dated 21 December 2019, items 1, 2, 3, 4, 6, 7, 8, 9, 9c and 9d. I make an order that you pay the costs of analysis totalling \$3043.

The effect of the sentence that I have imposed on you today Ms Wolf is that you are sentenced to 22 months' imprisonment. I have not suspended any part of that sentence but I have made you eligible for parole after 12 months. The Parole Board will make conditions which attach to parole in the event that you make such application and it is successful.