

Mr Atkinson has pleaded guilty to three charges of trafficking in controlled substances, and to a charge of dealing with property suspected of being proceeds of crime. He has also pleaded guilty to a summary offence – possessing ammunition when not the holder of the appropriate firearm licence – that I will deal with under s 385A of the *Criminal Code*.

These charges all result from a police search of Mr Atkinson's home on 13 November 2019. He had possession of commercial quantities of cannabis, crystal methylamphetamine, and MDMA, also known as ecstasy, for the purpose of sale. There are separate trafficking charges for each of the three drugs. He had 756.4 grams of cannabis head, worth at least \$6,750 if sold by the ounce. The methylamphetamine would have fetched \$13,680 if sold by the gram, and much more if sold by the point. The MDMA could have been sold for \$8,190. He had \$31,085 in cash from the proceeds of selling drugs, as well as a quantity of drug related equipment and an assortment of ammunition. None of the drugs found by the police were intended for Mr Atkinson's personal use. He planned to sell everything that he had.

Mr Atkinson is 33 years old. He was 32 at the time of the police search. By the age of 16 he was a user of cannabis, cocaine and methylamphetamine. He has pleaded guilty to drug offences on seven previous occasions, beginning in 2008 when he was sentenced to community service for cultivating, possessing, using and selling cannabis. He was fined in 2010 for using and selling cannabis. He has six convictions for driving with an illicit drug in his body – the first in 2011 and the last in 2017. In 2013 he was given a wholly suspended sentence of four months' imprisonment for trafficking in cannabis. That sentence was activated in 2014 as a result of him driving with an illicit drug in his body.

In December 2017 he pleaded guilty to four counts of trafficking and two counts of possessing a firearm when subject to a firearms prohibition order. Those trafficking charges related to three police searches – in March 2016, July 2016, and February 2017. During that period Mr Atkinson continued trafficking in various drugs, particularly methylamphetamine, after being caught and charged with trafficking. Brett J made a drug treatment order, which included a wholly suspended sentence of two years' imprisonment. Mr Atkinson took advantage of the opportunity that he had been given, and ceased to use illicit drugs. The police search that gave rise to the current charges occurred more than 23 months after the making of the drug treatment order.

Although Mr Atkinson ceased using drugs, he owed a very substantial drug debt at the end of 2017. At that time he had an income from an employer, but his employer's business closed down and he found himself out of work. His partner became pregnant around late 2018. Her safety was threatened. Mr Atkinson agreed to sell drugs to raise money to pay off the drug debt, fearing for the safety of his partner and other family members. He made no money from the trafficking for which I have to sentence him. He intended to sell drugs only until the debt was paid. He did not participate in the control of the trafficking business. He sold only to existing users.

Mr Atkinson has been with his present partner for about 2 years. They have a son aged 6 months. He has three children from a previous relationship. His partner was working before their child was born. She is currently on maternity leave. She does not have a history of substance abuse. Mr Atkinson wishes to remain drug free. He does not want to associate further

with people involved in the criminal justice system. It counts in his favour that he pleaded guilty. It was neither an early plea nor a last minute plea. I remanded him in custody on the day that he pleaded guilty, 4 December. A previous employer is willing to re-employ him upon his release from prison.

Because of Mr Atkinson's apparent desire to stay out of trouble and lead a drug-free life, I obtained a home detention assessment report. A probation officer reported that he was considered unsuitable for a home detention order because he had a history of family violence in the course of his previous relationship, from 2008 to 2017. He went to prison in 2013 and 2014 in relation to various offences that included family violence offences. Home detention can often place a strain on a couple's relationship to such an extent that the detainee engages in domestic violence. Following the provision of that report, his partner made a decision that she would be willing to move out of her present home and go and live with her parents so that Mr Atkinson could move in and be subject to a home detention order. In those circumstances I think it is now appropriate that I make the home detention order.

Despite Mr Atkinson's bad record of prior convictions, I think this is an appropriate case for the emphasis to be on rehabilitation, although it must always be remembered that home detention is a severe punishment in all sorts of ways. In making this order, I am taking into account the fact that Mr Atkinson has spent 10 weeks in custody. Under the terms of the home detention order, committing any assault or family violence offence could result in the home detention order being revoked and a sentence of imprisonment imposed in its place. If home detention orders had not been available, I would be imposing a prison sentence today.

Joshua John Atkinson, I convict you on all charges. As a global penalty, I make a home detention order for an operational period of 12 months from today. The full contents of the order will be set out in a document that will be provided to you. They include conditions, all of which apply for those 12 months, as follows:

- You must not commit an offence punishable by imprisonment.
- You must reside at [address].
- You must be there at all times, except when you are not there for a "relevant reason" as specified in s 42AB(4) of the *Sentencing Act* 1997. That includes going somewhere with your probation officer's permission.
- You must permit a police officer, probation officer or prescribed officer to enter those premises.
- You must permit a police officer to conduct a search of the premises, conduct a frisk search of you, and take a sample of any substance found on the premises or on your person.
- You must submit to electronic monitoring, which may include wearing or carrying an electronic device.
- You must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.
- You must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.

- You must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring including directions relating to the installation, attachment or operation of a device or a system used for the purpose of electronic monitoring if those directions are given to you by a police officer, a probation officer, a prescribed officer, or any other person whose functions involve the installation or operation of a device or system used for the purposes of electronic monitoring.
- You must maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections, and be accessible for contact through that device at all times.
- You must not take any illicit or prohibited substances.
- You must not take any medication containing an opiate, benzodiazepine, bupropion hydrochloride or pseudoephedrine unless you provide written evidence from your medical practitioner that you have been prescribed that medication.
- Immediately after leaving court today you must attend the office of Community Corrections at in Bathurst Street, Hobart for induction arrangements relating to this order.

I order that the sum of \$31,085 seized by police officers be forfeited to the State of Tasmania.

I order that the items referred to in paragraph 13(ii) of the Crown statement of facts be forfeited to the State of Tasmania.

I order that you pay the costs of analysis in the sum of \$5,650 in accordance with s 36B of the *Misuse of Drugs Act 2001*.