

STATE OF TASMANIA v SHAUN WILLIAM THOMAS
COMMENTS ON PASSING SENTENCE

25 FEBRUARY 2021
MARSHALL AJ

Mr Shaun Thomas pleaded guilty to once count of trafficking in a controlled substance contrary to s 12 of the *Misuse of Drugs Act* 2001. The particulars of the charge were that "At Burnie in Tasmania between on or about the 1st day of October 2019 and the 18th day of March 2020 trafficked in a controlled substance, namely cannabis."

The prosecution applied for three summary offences to be dealt with under s 385A of the *Criminal Code*. Mr Thomas pleaded guilty to those offences. Those matters concerned possession of cannabis, using cannabis, using a smoking device in connection with the smoking of a controlled plant, and using a grinder in connection with the preparation of a controlled plant. Other associated minor offences were said to be subsumed by the indictment.

On 18 March 2020, police executed a drug-related search warrant at the residence of Mr Thomas in Wivenhoe, where he lives with his parents. Mr Thomas is 22 years old and was 21 years old at the time of offending. Police found 13 individual cannabis plants yet to be harvested inside three growing houses at the rear of the premises, along with 10 cannabis root balls. Police also located some loose cannabis bud and leaf from the ground at the rear of the yard, as well as some dry cannabis stalk and leaf from a shed, and in a blue tarpaulin. In addition, quantities of cannabis were found as seeds, stalks and leaves or loose cannabis throughout the house in various locations. In all, police seized 3.49 kilograms of cannabis.

After the search Mr Thomas was arrested and taken to Burnie Police Station. He admitted that the plants belonged to him and that he had grown them from 23 seeds he planted in October 2019. He said it was his first time growing cannabis, and he gained knowledge from the internet and some locals. He said he was going to give some cannabis away to those who had helped him in the past, and was going to smoke or cook the rest for eating. He said he had sold small amounts of cannabis on six occasions between January and November 2019. Mr Thomas told police that he started using cannabis when he was 10 years old. He uses cannabis daily by smoking or eating it. He owned a bong and a cannabis grinder.

13 of the 23 plants had yet to be harvested. The potential yield for such a harvest is between \$15,600 and \$36,400, depending on how plants are sold. The cannabis product at Mr Thomas' residence had a value of \$36,903 to \$86,109, depending on the form of the sale. The total estimated street value of the cannabis seized was \$52,503.

Counsel for Mr Thomas informed the Court that Mr Thomas, for the last 18 months, has been the carer for his mother who has dementia. His father is working full-time but hopes to retire later this year and take over the care and responsibilities for his wife. Mr Thomas has had previous employment as an apprentice painter and farm worker, and has good employment prospects. He has suffered from COPD, unusually from an early age which gives him breathing and sleeping problems. Cannabis has assisted him in sleeping. He predominantly uses it by cooking it and eating. He made full admissions to police and was very co-operative. He instructed his counsel that the plants grew higher than expected and got out of control. It appears to have been a very amateur operation.

Mr Thomas has no relevant prior convictions, and has not committed any further offences since being charged with this offence. He is remorseful and has good prospects for rehabilitation. He considers the current Court proceedings to be a significant wake up call for him.

In setting a penalty, the Court has regard to general and specific deterrence, and the public interest in minimising the cultivation and sale of illicit substances. In all the circumstances the Court considers the appropriate penalty is to impose a 12 month period of imprisonment, wholly suspended, on the condition that Mr Thomas not commit any offence punishable by imprisonment in the next 18 months.

In addition, I make the following orders sought by the State under s 38 of the *Misuse of Drugs Act* 2001 for the forfeiture to the State of the following:

- Home made and glass bongs: Property Seizure Record 165811, items 3, 4, 5, 7 and 17.
- Clip lock bags: Property Seizure Record 165812, item 26.
- Cannabis grinder: Property Seizure Record 165812, item 24.