

Nicholas David Preston, you have been found by the jury not guilty of cultivating these plants for sale, but guilty of cultivating a controlled plant, which is a minor offence constituted solely by the act of cultivation of the cannabis. I have no doubt that you understood at the time you were cultivating the controlled plant that you were breaking the law. I accept your evidence and clearly the jury accepted, on the balance of probabilities – that you were cultivating for the reasons you explained in your evidence, that is, that you do have a longstanding problem arising from problems in your back due to the nature of the work you were doing, compounded by the motor vehicle accident you had, and you were using cannabis as an anti-inflammatory and in an attempt to seek some relief from the symptoms. I accept your evidence that it did in fact have that effect for you. But the fact remains that society and the community have said that even in those relatively innocuous circumstances, it is still illegal to grow cannabis, and you grew a lot of cannabis. I think it is a fair description of the extent of the cannabis that you grew that it was at the higher end of the amount of cannabis that one would normally see, particularly in relation to minor offences of cultivation, but sometimes even in relation to the indictable offence. It was a significant amount of cannabis. I accept what your counsel had said to the jury that, to some extent, this was the product of nature, but it was clear that you had also put considerable effort into ensuring the success of the crop, and that is why there was so much.

Having said that, in relation to the jury's finding, you were not cultivating for a purpose which was in itself discretely illegal. The cultivation was illegal, but it was for a purpose for which you had a bona fide belief would be of medicinal benefit to you. That is relevant to your personal culpability. It was a deliberate act. You knew you were acting against the law. You were certainly old enough and experienced enough to understand all that and make that deliberate decision, and put yourself in jeopardy of conviction.

The other point is general deterrence, and that does have a role to play because the fact of the matter is cultivation of cannabis is illegal, although I completely understand there is a growing belief in the community, which may have a strong basis, that it does have medicinal value. However, the fact of the matter is, it is illegal. That is probably related to the other side of the use of cannabis which is demonstrated to have harmful effects on people who use it regularly, particularly young people. And so general deterrence does have a role to play.

I think you should pay a significant fine. I accept that you have difficult financial circumstances. You gave evidence about the amount of money you had received from the divorce settlement. I have no idea how much of that is left, but I think it should be a significant fine. The maximum fine is around \$8,000. I think the fine you should pay is \$2,000.

There is one further matter. I do take into account the utilitarian value of the offer to plead guilty to this charge at an early time.

The orders I make are these:

- 1 You are convicted of the offence of which you have been found guilty, which is cultivating a controlled plant, a minor offence contrary to the *Misuse of Drugs Act*.
- 2 I impose a fine of \$2,000.
- 3 I order the forfeiture of items 20, 21 and 22, the LED lights, the grow tent and poles, and the blue notebook, listed on Property Seizure Record Receipt 175954.