

STATE OF TASMANIA v NIGEL JOHN GRIGGS
COMMENTS ON PASSING SENTENCE

18 MARCH 2021
GEASON J

Mr Griggs you have pleaded guilty to trafficking in a controlled substance contrary to s 12 of the *Misuse of Drugs Act*. The charge is put on what is sometimes referred to as a Giretti basis, that is that you engaged in the business of trafficking.

In 2018 Tasmania Police commenced operation Austin in relation to your drug related activities. The evidence in this case is based upon telephone intercept material, from which it was established that between 18 April 2018 and 4 June 2018 you were purchasing quantities of methylamphetamine, cannabis, ecstasy, morphine and heroin across the north-west coast and agreed to sell it within the same area. Your nickname – Ron, and your mobile phone number, ending in 995, was found in the mobile phone contacts of a number of people found to be in possession of controlled substances in that period.

On 18 April 2018 police executed a drug related search warrant at your residence at Hillcrest. You were present and in possession of the mobile phone to which I have just referred. Other people were also present. The police located digital scales, two diazepam tablets, an Ice pipe, a syringe and a tick sheet in your bedroom. As well, 3.65 grams of cannabis bud, a bong and a syringe were located in the lounge room. The tick sheet detailed amounts totalling over \$19,000 and a number of names were recorded on it. You were interviewed at the scene and said it was not your cannabis, not your Ice pipe, and not your diazepam and that someone else had brought them to the house. You said it was not your tick sheet. I am told that another person was convicted in Devonport in March 2019 for being in possession of a controlled plant (or its products) and of a thing used for the administration of a controlled drug arising out of the execution of a warrant on that day.

On 18 May 2018 your motor vehicle was intercepted by police and searched. You were in the front passenger seat and another person was driving. About 3.44 grams of methylamphetamine was located in your underwear, \$550 in cash was in your pocket and there was a packet of twenty 30mg codeine-based pain killers. You were in possession of a mobile phone with a phone number ending in 995. You were interviewed at the scene and said that the pain killers were for your arthritis, that you had a prescription for them and that the money was from your pension and from some work you had done towing a car. You were unable to produce a prescription for the pain killers. You said you did not know the bag was in your underwear but believed that it contained methylamphetamine.

At the time you were subject to a bail condition not to commit an offence punishable by imprisonment and you were in breach of that condition.

Those searches provide context. The value of drugs possessed falls between \$13,700 and \$14,750. The Crown's case, which you have accepted by your plea, is that you possessed those drugs with the intention of selling them, that you transported those drugs, that you guarded them and concealed them with the intention of selling them and that you have in fact sold some of those drugs. The Crown case is that the messages and calls are indicative of an established business in selling drugs to a number of people, and that the content of the text messages and calls demonstrates that you are known by these people to be in the business of selling drugs.

You participated in a record of interview, you confirmed your address but you otherwise made no comment.

I have regard to the submissions that have been made to me in relation to your offending by Ms Ker. I accept that yours was a short period of offending, but nevertheless the regularity of the offending within that short period demonstrates the serious nature of it.

You are 60 years old, divorced, with two children and you receive a Disability Support Pension. Your social use of drugs apparently escalated after your divorce and your involvement with drugs is long-standing, as your record of prior convictions indicates. The matter of the greatest concern to the Court in sentencing you is that you have been sentenced on a number of occasions in the past for drug related offences and apparently to no avail. This goes back as far as 1980. I see few, if any, positive steps having been made towards rehabilitation despite indications to that effect, most recently noted in the comments on passing sentence of the Chief Justice a couple of years ago. You have received sentences in the past which were intended to deter you from further offending, and these have not succeeded. Even if I accept that there has been some success, your willingness to be involved in the drug scene and in circulating these drugs within the community requires condemnation by this Court. You appear to commit these offences with an impunity that suggests that you consider yourself above the law. These drugs do considerable harm and it is through the business of trafficking that that harm is unleashed. It follows that a sentence which deters others from engaging in this sort of behaviour is required. The trend in sentencing for trafficking offences has been upwards in recent years reflecting the considerable harm that drugs do in the community, and whilst I accept that your activities involved the trafficking of drugs to people known to you to be users the level of seriousness attaching to your behaviour requires punishment even if you have been careful not to recruit new customers to your business.

In the circumstances of your offending and the objective seriousness of this crime, the types of drugs involved in these offences, the need for general deterrence and, to deter you from further offending the sentence of the Court is 2 years' imprisonment. I impose a non-parole period of 14 months. I backdate the sentence to the date you were remanded in custody by me in February.

The effect of the sentence is that you must serve 14 months of the sentence I have just imposed before you are eligible to apply for parole. It will be for the Parole Board to determine what conditions should attach to a grant of parole if that application is successful.

I make an order in relation to the cost of analysis in the sum of \$179 as sought by the State.