

STATE OF TASMANIA v CHEYENNE MARGARET McGUIRE
COMMENTS ON PASSING SENTENCE

24 MAY 2021
ESTCOURT J

The defendant Cheyenne Margaret McGuire, aged 23 at the time of the offending, has pleaded guilty to one count of trafficking in a controlled substance.

In August 2018 Tasmania Police established Operation Gold, a taskforce set up to investigate the trafficking of crystal methylamphetamine (Ice) and other drugs throughout southern Tasmania. The targets of the operation were AM, DM, JM and RB.

During the course of the investigation the defendant was identified as being involved in the sale of methylamphetamine.

The State asserts during the period of the indictment the defendant was directly involved in the criminal enterprise or business being conducted by the M's together with RB in that:

- DM would obtain methylamphetamine from or via RB which he would then distribute to AM and JM for them to sell to the end users.
- AM would give some of that methylamphetamine to the defendant for her to sell and she accounted to him for the proceeds of the sale.
- In return AM paid the defendant for her efforts.

Based on the defendant's admissions of selling an average 6 point deals (for between \$50 and \$100) everyday whilst living at an address in Sussex Street, she sold between \$300 and \$600 in methylamphetamine a day. Over the 131 days from 1 December 2018 to 11 April 2019 that amounted to between \$39,300 and \$78,600. It is apparent from the intercepted telephone calls that the defendant was already engaged in selling methylamphetamine as at 23 August 2018. For the 100 days between that date and 1 December 2018 (prior to moving to Sussex Street) with similar average daily sales (consistent with the defendant's comments in the intercepted telephone calls), the defendant would have sold, therefore, between \$30,000 and \$60,000 of methylamphetamine.

In total, for the whole period of the indictment, the defendant sold between \$69,300 and \$138,600 of methylamphetamine.

The Crown makes application pursuant to s 11(1)(b) of the *Crime (Confiscation of Profits) Act* 1993 for an order pursuant to s 21 of the Act that the defendant pay a pecuniary penalty of \$69,300 to the State of Tasmania. I will turn to that shortly.

The Crown makes application pursuant to s 38 of the *Misuse of Drugs Act* 2001 for an order that the snap lock bags, digital scales, tick sheet and smoking devices, seized from the defendant on 11 April 2019 be forfeited to the State of Tasmania. I make that order.

The defendant has limited prior convictions and none in relation to the drug of Ice. There has been no further offending since being charged.

She is now 25 years of age and has been in a stable relationship for the last 5 years. She has two children aged 5 and 4 years of age from a previous relationship.

She has employment at a motel which has been ongoing for about a year. She is a valued employee and her responsibilities have increased as she has been able to demonstrate her abilities.

She was recruited to work for AM as a person who did not have an association with drugs and who was known to be struggling to meet financial commitments. She was paid a mere \$50 a day and kept none of the proceeds of the sales and none of the drugs. She did not use Ice herself.

She was paid a total \$9950 over the period of offending. However, there was also an amount of \$1900 paid by AM in advance to cover the defendant's bond on premises that she rented. The payment of the bond resulted in 38 days of payment being withheld to cover the cost of the bond.

The defendant agrees to a pecuniary penalty in the amount of \$11,850 being the total amount received by her by way of payment or as bond. I make the order sought by the State, earlier alluded to, in that sum.

I have received pre-sentence reports. The defendant is not suitable for home detention as a result of a lack of suitable premises. She is suitable for community service.

In all of the circumstances I am of the view that a suspended sentence coupled with community service is an appropriate sentence.

The defendant is convicted and sentenced to 18 months' imprisonment which sentence I wholly suspend for a period of two years on condition that she commit no offence punishable by imprisonment within that time.

In addition I make a community correction order for a period of two years with all of the core conditions and a special condition that the defendant perform, within the operational period of that order, 98 hours of community service.