

**STATE OF TASMANIA v KKB**  
**COMMENTS ON PASSING SENTENCE**

**4 MAY 2016**  
**BLOW CJ**

You have pleaded guilty to four charges relating to cannabis. The most serious charge is a charge of cultivating a controlled plant for sale. Police officers visited your home in May of last year and found 21 cannabis plants growing in a shipping container. I am sentencing you on the basis that you had not ever actually sold any cannabis, but that you intended to sell some of the harvest from the 21 plants that you were growing. I accept that you were not going to sell it all. I accept that you were a user of cannabis and that a substantial amount of the yield from those plants was going to be used by you, and probably some more given to friends who were already cannabis users.

The other three charges are summary charges that would ordinarily be dealt with by a magistrate: I am dealing with them under s 385A of the *Criminal Code*. One of those is a charge of possessing a controlled plant. A small amount of harvested cannabis bud was found in your possession on the day of the police search. You apparently told the police that you had used cannabis the previous day. On the basis of that admission you have been charged with using a controlled plant, and you have pleaded guilty to that. A smoking device was found in your possession. You pleaded guilty to possessing a thing used for the administration of a controlled drug.

You were 18 years old at the time of the police search. Apparently you had started growing the cannabis in question when you were 17. You had been introduced to cannabis when you were still at high school. You had worked on the show circuit doing heavy work – assembling and dismantling rides and so forth, and you had a back problem as a result. You used cannabis to self-medicate to relieve your back symptoms without ever having gone to see a doctor about them. You have also had a number of significant tragedies in your life, which I do not think I need to recite.

When people get into trouble for cultivating cannabis for the purpose of sale the normal penalty is a prison sentence, but often prison sentences are suspended or partly suspended. In your case you are only 19 now. Because of all the circumstances that I have mentioned I think I should take a slightly lenient course, so I am going to impose a fairly short prison sentence and suspend all of it. But you need to watch out because in Tasmania, when a sentence is suspended, it has to be suspended on condition that the offender may be called upon to serve the entire sentence if that person commits an offence punishable by imprisonment within a certain period of time. Smoking cannabis is punishable by imprisonment. Possessing cannabis is punishable by imprisonment. So you need to be careful not to reoffend, or you will find yourself back here with an application for the suspended sentence to be activated, and it would have to be activated unless the Court thinks that that is unjust. So, that is where you are heading.

I am also taking into account in your favour the fact that you pleaded guilty. You did so at a very late stage. We were ready to start a trial this morning, but you have saved the State and the Court the cost and inconvenience of a one or two day trial.

In relation to the four charges, I convict you and sentence you to two months' imprisonment wholly suspended on condition that you commit no offence punishable by imprisonment for a period of two years.

You will have to pay victims of crime compensation levies totalling \$110. I order that you pay that amount within 28 days.

I also order the forfeiture to the State of Tasmania of all the items on property seizure record receipt 150353, except items 11, 12 and 13; and items 17 and 22 on property seizure record receipt 150354.