

Mr Bailey, you have pleaded guilty to 1 count of trafficking in methylamphetamine.

Your commission of the crime is constituted by you being found in possession of a trafficable quantity of this drug on 18 October 2018. In particular, police found you in possession of an ounce (28 g) of the drug when they stopped the vehicle which you were driving on that day. You were also aware that the vehicle contained a large quantity of methylamphetamine which had been purchased by and was in the possession of your passenger, and you were thereby transporting his drugs as well. You had arranged to purchase the ounce from this passenger a few days earlier, and had prepaid him the price of the drugs, which was \$6,000. On the day of the crime, you drove this man to an hotel in Hobart and waited in the car while he met two men in the hotel for the purpose of purchasing from them a large quantity of methylamphetamine, including the quantity which you had arranged to purchase from him. The two men were drug dealers who had travelled from the mainland to conduct this transaction. What you did not know is that they and your friend were the subjects of a police investigation, and their meeting was under police surveillance. Police stopped you and located the drugs shortly after you left the hotel. There is no suggestion that you had any wider involvement in the drug trafficking than the purchase of these drugs, and I am expressly informed by the prosecution that you were not a target nor a person of interest in respect of the police operation. Although you deny prior knowledge that your friend intended to purchase drugs other than those being sold to you when you drove him to the hotel, you did realise this when he returned to the car. Hence, you were aware that you were transporting drugs for him in the belief that he intended to sell them, although the transportation was transitory and coincident with your own purchase. It is not suggested that you had any intention of further involvement in his drug trafficking, and your only interest was to obtain the one ounce of methylamphetamine that you had purchased. I note the police also found a small quantity of methylamphetamine, .5 of a gram, at your residence during a subsequent raid.

The law presumes that you possessed the ounce of methylamphetamine purchased by you with the intention of selling same. This is not disputed by you, but your counsel informs me that your instructions are that you had not sold methylamphetamine before. You told the author of the pre-sentence report that you had ceased cannabis use and had started to use methylamphetamine on a limited basis, shortly before committing this crime. You decided that it would be cheaper to purchase a large quantity of the drug in bulk. You were intending to use some of it yourself, but you also intended to sell some of it to supplement your income. However, you had not sold any methylamphetamine before, and you were apprehended by police before you could put this plan into effect. This would seem to be consistent with surrounding evidence. Although police conducted a subsequent raid on your premises, they did not locate any paraphernalia or other evidence consistent with past sales of this drug. I accept that this was your first venture into the purchase of a large quantity of methylamphetamine and also that you did not actually sell any of it.

You are 42 years of age. You are in a stable relationship of some 25 years' duration. You have six children, the three youngest of whom are under 18 and still living at home. You also have grandchildren, a foster child, I think, and you are also assisting your parents with various needs in their life. You have a good work history and are currently in employment. A reference from your employer speaks highly of you. However, despite the stable aspects of your life, you have had long-standing problems with substance abuse. You also have a relatively lengthy criminal

history, which includes a number of convictions for minor drug offences. I am told that these relate exclusively to your past use of cannabis. I note that these include minor offences for selling and cultivating drugs, although the last of these convictions occurred in 2014. There has been nothing of significance since that time, apart from this offending.

You told the author of the pre-sentence report that you consider your actions on this occasion to be stupid and that you have, since your arrest, stopped your use of methylamphetamine and do not intend to repeat conduct of this nature again. Your counsel informed me that this was a wake-up call for you and that you have been embarrassed by your conduct and its implications for both yourself and your family. Having regard to the circumstances of this offending and your personal circumstances, I am satisfied that this accurately reflects your response to your arrest and prosecution. Although your plea of guilty could not fairly be described as an early plea, I am instructed that you have always been prepared to plead guilty on the basis already described, and that your failure to do so largely stemmed from inaccurate legal advice from your former lawyer. I will proceed on the basis that the plea is at least consistent with your claimed attitude and response to the offending.

There is no question that the crime of trafficking in illicit drugs is a serious matter and, particularly so, if it involves the highly addictive and insidious drug, methylamphetamine. The authorities make it clear that general deterrence is an important sentencing consideration. Normally the commission of this crime will call for the imposition of a term of immediate imprisonment. However, there are some features of your offending and personal circumstances which distinguish this case from more serious examples of the crime. You had not actually sold any of the drug and although it was your intention to do so, the reality is that your venture into drug trafficking was short-lived because of the coincidence of the police operation. I think this probably was a wake-up call for you and I accept that you are unlikely to repeat this criminal conduct, although I also accept the opinion of the pre-sentence report author that your past history means that some structured supervision and support would be useful in ensuring that you do not re-engage in the use of illicit drugs. You have strong support from both your family and your employer. I think that this is an appropriate case where a home detention order would appropriately respond to the relevant sentencing considerations.

The pre-sentence report has recommended against such an order on the basis that the policy of Community Corrections is that an order should not be made if either you or your partner have a past family violence incident recorded on something called a Police Family Violence Management System. This is apparently on the basis that, if there is such a record, then there is an increased risk of family violence occurring during the home detention period. Well, a real risk of family violence might well make an order inappropriate but the legislation provides that it is the judge who determines whether such a sentence should be imposed, and prior family violence does not automatically preclude an order under the legislation. Further, I consider that although a court should be informed of a risk of future family violence, including that arising from past events, I consider that a recommendation against an order on the basis of a policy arising from an administrative record, without further analysis, is unhelpful and ought be afforded little weight. In the circumstances of this case, I think the risk of future family violence is low. The relevant incident concerns a police family violence order made to protect you after police were called to an argument between you and your partner in August 2019. The material in the report indicates that this was something which occurred as a response to the particular circumstances and that overall you and your partner experience a positive and mutually supportive relationship. I do not intend to apply the said policy in this case.

For the sake of completeness, I indicate that I have considered the question of parity between you and your passenger. He was sentenced by Geason J on 3 March 2020 to imprisonment for 2 years and 10 months. However, I consider that his offending and personal circumstances are not comparable to yours. He was in breach of a suspended sentence when he committed these crimes, and had purchased and was intending to commence a significant trafficking operation for commercial purposes. The drugs he had purchased had a street value of between \$58,500 and \$273,900.

Accordingly, the orders I make are as follows:

- 1 You are convicted of the crime to which you have pleaded guilty.
- 2 I make a home detention order, which will have an operational period of 18 months, commencing at 9am tomorrow. The home detention premises will be [address]. I note that the core conditions of the order contained in s 42AD(1) will have effect during the operational period of the order. This will include s 42AD(1)(g), which is the provision requiring submission to electronic monitoring. For the purposes of the condition contained in s 42AD(1)(c), I specify that you must during the operational period, be at the home detention premises at all times on each day of the week, unless you are not there for a relevant reason, as specified in s 42AD(4). The order will also include the following special conditions:
 - (a) That you must report to a Community Corrections officer at Community Corrections in Launceston before 10am tomorrow.
 - (b) That you must maintain in operating condition an active mobile telephone service, provide the details to a Community Corrections officer and be accessible for phone contact through this device at all times.
 - (c) That you must submit to the supervision of a Community Corrections officer as required by that officer.
 - (d) That you must not, during the operational period of the order, take any illicit or prohibited substances, including:
 - (i) any controlled drug is defined by the *Misuse of Drugs Act 2001*;
 - (ii) any medication containing an opiate, benzodiazepine, bupropion, hydrochloride or pseudoephedrine unless you provide written evidence from a medical professional that you have been lawfully prescribed the relevant medication.
- 3 I also make a Community Corrections order. You must comply with the order for a period of 18 months, and that period shall commence at 9am tomorrow. The core conditions of the order require you to report to a probation officer, and you shall do so at the office of Community Corrections in Launceston before 10am tomorrow. In addition to the core conditions, the order shall also include the following special conditions:
 - (a) you must, during the operational period of the order,

- (b) attend educational and other programs as directed by the Court or a probation officer;
- (c) submit to the supervision of a probation officer as required by the probation officer;
- (d) undergo assessment and treatment for drug dependency as directed by a probation officer;
- (e) submit to testing for drug use as directed by a probation officer;
- (f) attend, participate in and complete the EQUIPS addiction program as directed by a probation officer;

4 I make the forfeiture orders sought by the prosecution.

5 Further, under s 36B of the *Misuse of Drugs Act*, I order that you pay the costs of the analysis of the drugs, which I assess in the sum of \$840.