

STATE OF TASMANIA v FIONA JANE HODGETTS
COMMENTS ON PASSING SENTENCE

2 JULY 2020
PEARCE J

Fiona Hodgetts, you plead guilty to trafficking in a controlled substance and dealing with proceeds of crime. I also agreed to deal with your plea of guilty to the summary charges of possessing and using a controlled plant, possessing and using a controlled drug, possessing a thing used for administration of a controlled drug, possessing a firearm without a licence, possessing ammunition without a licence, failing to take precautions to ensure safekeeping of a firearm, possessing a firearm for which a licence may not be issued, possessing a firearm with identification marks defaced, possessing a laser pointer in public, possessing a silencer, unlawfully possessing a dangerous article in a public place, driving while suspended.

At around 10.15 pm on 29 July 2020 a car you were driving was pulled over by the police. At the time your driver licence was suspended. A road side drug test was positive. As you stepped out of the car you threw a .32 calibre six chambered revolver onto the grass nearby. The car was searched. In the boot the police found:

- a backpack containing a .22 calibre silencer, two knives and a .22 cartridge;
- 20 Codalgin Forte tablets, 19 100 mg Tramadol tablets and 10 5 mg Diazepam tablets.

In the glove box was:

- an electronic stun gun;
- a small case containing two zip lock bags of methylamphetamine, respectively 12.8 grams and 1.5 grams, a zip lock bag containing four MDMA tablets, a zip lock bag containing 10 MDMA tablets, an Ice pipe and a 17.3 grams of MDMA in solid form.

There was a laser pointer in the centre console. You had a mobile phone and, hidden under your shirt, a zip lock bag containing 28.4 grams of cannabis. In your handbag was:

- a small bag of cannabis;
- three folding knives;
- five .32 rounds and one .410 rounds;
- a purse containing \$5,010 in cash;
- a micro sim card;
- a revolver wheel; and
- a second mobile phone.

An oral fluid test confirmed that you had used both methylamphetamine and MDMA. You later admitted that the cannabis in your handbag was yours and that you had last smoked it some days earlier. When interviewed by the police you admitted having used methylamphetamine, that the stun gun, the folding knife and the mobile phones were yours but disclaimed any knowledge of or responsibility for the remaining items. You denied selling drugs despite the cash in your possession and the incriminating messages on your phone. It was later established that the revolver was not in working order but the identification number had been removed. The silencer did not fit it.

You have just turned 35. You have three children aged 17, 14 and 10. Whilst the eldest two are in the care of your former husband, you had care of your 10 year old son, who has serious health problems, until your remand in custody. You come from a strong family background

and since leaving school you have, subject to family obligations, held employment mostly in hospitality and housekeeping. Until 2019 your record was mostly for driving offences, including two relating to alcohol. However at about that time things took a significant turn for the worse. You had been in what you say was a violent and controlling relationship and in 2019 you were introduced to methylamphetamine and you became addicted. In March 2019 you were fined for possessing and using cannabis. Then, on 10 June 2021, only three weeks ago, you were sentenced by a magistrate for a considerable number of offences, some committed before 29 July 2020, the date of the matters I am now dealing with, and some since. I will first summarise the offences committed before. They include four counts of driving with an illicit drug in your blood, possessing and selling cannabis, possessing methylamphetamine, possessing a dangerous article and possessing a shortened firearm from which the identification number had been removed. The offences after July include numerous breaches of bail, driving with an illicit drug in your blood, unlawful possession of stolen property, possessing cannabis, dexamphetamine and methylamphetamine and, most seriously of all, two occasions of unlicensed possession of firearms. One occasion concerned two semi-automatic weapons. The other occasion included 10 firearms, three of which were stolen and one of which had been shortened. You were sentenced to imprisonment for 24 weeks from 26 March 2021, the day you were taken into custody. Having served almost 11 weeks of that term the balance was suspended for two years on condition that you do not re-offend and be subject to the supervision of a probation officer. Many of the offences are consistent with a life brought into chaos by addiction. It is less easy to understand the firearm offences in that context. The circumstances of your possession has not been explained to me, but, on the face of it and having regard to the seriousness of those offences, I consider the sentence which was imposed to be a very lenient one. Of course that view is not relevant to the sentence I am to impose for the matters before me.

In relation to those offences, the seriousness of the possession of a revolver is affected by the fact that it was not operable and was not related to the silencer. Compared to the very serious firearm offences for which you have already been sentenced it is less so. There was a relatively small quantity of ammunition. Without understating the seriousness of any of the offences the trafficking is the most serious. You admit that you were selling drugs to fund a drug debt arising from your own addiction. Whilst the amount of drugs and cash in your possession are relatively modest, you were nevertheless seeking to profit from the addiction of others. Trafficking in methylamphetamine in particular is a matter of great concern to the courts and the community for reasons which are obvious and have been stated on many occasions.

Until your remand in custody you had not been to prison before. The result for you has been an opportunity to break the cycle of violence and drug abuse to which you were subject, and to re-engage with your family. It is intended that you continue that process of rehabilitation by moving away from Launceston on your release. It is to your credit that you have taken the opportunity while in prison to address your health, to engage in counselling and to accept positions of responsibility aimed at providing education services to other prisoners. Persons without prior convictions for trafficking are, in appropriate cases, sometimes made subject to terms of imprisonment which are wholly suspended with the aim of allowing the opportunity to address the type of issues confronting you while in the community. For those reasons I am persuaded that I should also adopt an approach primarily aimed at your rehabilitation if that can be achieved. You must understand that if you do not take advantage of the opportunity you have been offered that you are unlikely to be offered such lenience again. I will also impose a condition which requires you to comply with the supervision and directions of Community

Corrections. If you breach any conditions of that order you may also be brought back and re-sentenced.

Fiona Hodgetts, you are convicted on both counts on the indictment and on counts 3 to 16 inclusive on complaint 33531/2020. Counts 1 and 2 on that complaint are subsumed in the indictment. I am also satisfied that count 17, selling methylamphetamine, is also subsumed and I dismiss that count. I am satisfied that the sum of \$5,010 is tainted property as the proceeds of drug sales and that no hardship will result from its forfeiture. I order, pursuant to the *Crime (Confiscation of Profits) Act 1993*, s 16(1) that the money is forfeited to the State. I order that the revolver, the glass smoking device listed as item 4C on drug exhibit sheet 265564 and the drug case listed as item 4 on property seizure record 18414, all seized on 29 July 2020, are forfeited to the State.

Counts 4, 6, 10 and 12, possessing the smoking device, the ammunition, the laser pointer and the knives, are offences not punishable by imprisonment. In light of the sentence I am about to impose on the remaining counts I make no further order on those counts. . On count 13, driving whilst suspended, you are fined \$200 and disqualified from holding a driver's license for 12 months, noting that you are already disqualified from driving for three years. I order that that period of disqualification be served from today. On the remaining counts I impose one sentence. You are sentenced to imprisonment for seven months from 10 June 2021. I suspend the balance of that term for two years from today on the following conditions:

- (a) You are not to commit another offence punishable by imprisonment during that period. If you breach that condition you will be required to serve the term unless that is unjust.
- (b) During the operational period of the order you will subject to the supervision of a Community Corrections officer. The conditions referred to in s 24(5B) of the *Sentencing Act* apply to this condition and will be set out in the order you will be given. These include that you must report to a Community Corrections officer at 111 Cameron Street in Launceston on or before 5 pm on Tuesday 6 July 2021.
- (c) In addition to the core conditions, the order will also include the following special conditions that you must, during the operational period of the order:
 - i. attend educational and other programs as directed by a Community Corrections officer;
 - ii. submit to the supervision of a Community Corrections officer as required by that officer;
 - iii. undergo assessment and treatment for drug dependency as directed by a Community Corrections officer;
 - iv. submit to testing for drug use as directed by such an officer;
 - v. submit to medical, psychological or psychiatric assessment or treatment as directed by a Community Corrections officer;
 - vi. attend and complete the EQUIPS addition program as directed by a Community Corrections officer.