

Mr Bresnehan has pleaded guilty to a charge of trafficking in controlled substances. Over a period of about 21 months, or perhaps a little less, he bought and sold MDMA, cocaine, ketamine and methylamphetamine. After turning 18 in December 2017 he began using these drugs, and selling them at a profit in order to fund his own habit. His activities came to the attention of the police in the early hours of 17 September 2019 when officers intercepted him driving along Sandy Bay Road and conducted an oral fluid test that returned a positive result. Searches were conducted, first of his backpack, then of his car, and then of his home. Information was obtained from his mobile phone and his bank records. It is clear that he was carrying on a business as a drug dealer. On the day of the searches he was found to have over \$9,000 worth of MDMA in his possession. His phone contained records of message exchanges with five customers, each in relation to sales of MDMA for hundreds of dollars. His phone also included "tick lists" recording sales to 26 customers who owed him over \$13,000. His bank records showed that 79 people had deposited funds totalling \$59,930 into one bank account, that 11 people had deposited a total of \$1,174 into another bank account, and that he had deposited \$12,410 in cash over eight transactions. The depositors sometimes left transaction descriptions that appeared in his bank statements saying things like "drug money", "pills", "bickie debt" and "one gram".

Mr Bresnehan was 19 years old when he was arrested and is now 21. He has been fined twice for speeding but has no other convictions. He lives with his parents. He enjoyed his schooling, completed year 12, and commenced a degree course in marketing and media. He has interrupted his studies because of these court proceedings. He has been working at a bottle shop near his home. He has excelled at sport in the past, but has not been involved in sport lately because of a shoulder injury. His interests include football, fitness, and trading in stocks and cryptocurrency.

After his arrest he stopped selling drugs and stopped using them, though with a couple of lapses. He has distanced himself from his former friends in the drug world. He acknowledges that what he did was not worth it.

At the suggestion of his counsel I obtained a home detention assessment report. Its author has reported that Mr Bresnehan is considered suitable for a home detention order, and for a requirement that he perform some community service. Initially I was concerned that this might be too serious a case for a home detention order to be appropriate, given the scale and duration of the trafficking. However, because Mr Bresnehan was aged 18 and 19 at the time of the trafficking, has no significant convictions for anything else, and appears to have stayed out of trouble for nearly two years since his arrest, I think that a home detention with a requirement for community service is the most appropriate course.

This is not a lenient punishment. I expect Mr Bresnehan will be allowed leave home to work at the bottle shop, but as a general rule will not be allowed to leave his home, and that is a very significant restriction for a man of his age. When he leaves he will be subject to electronic monitoring.

Trafficking in drugs is a very serious crime because of the harm caused to users. Drugs ruin people's lives. Users commit crimes to fund their addiction and commit dreadful crimes of violence when they are intoxicated. If Mr Bresnehan had been a few years older, I would

certainly have sent him to prison. And if he had not been considered suitable for home detention, I would certainly have sent him to prison and not suspended any part of the sentence.

Alex Michael Bresnehan, I convict you on the charge and make a home detention order for an operational period of 18 months from today. The order will include conditions, all of which apply for the operational period of 18 months, as follows:

- You must not commit an offence punishable by imprisonment.
- You must reside at [address].
- You must be there at all times, except when you are not there for a "relevant reason" as specified in s 42AB(4) of the *Sentencing Act* 1997. That includes going somewhere with your probation officer's permission.
- You must permit a police officer, probation officer or prescribed officer to enter those premises.
- You must permit a police officer to conduct a search of the premises, conduct a frisk search of you, and take a sample of any substance found on the premises or on your person.
- You must submit to electronic monitoring, which may include wearing or carrying an electronic device.
- You must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.
- You must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.
- You must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring including directions relating to the installation, attachment or operation of a device or a system used for the purpose of electronic monitoring if those directions are given to you by a police officer, a probation officer, a prescribed officer, or any other person whose functions involve the installation or operation of a device or system used for the purposes of electronic monitoring.
- You must maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections, and be accessible for contact through that device at all times.
- You must not take any illicit or prohibited substances.
- You must not take any medication containing an opiate, benzodiazepine, bupropion hydrochloride or pseudoephedrine unless you provide written evidence from your medical practitioner that you have been prescribed that medication.

Another condition of the order is that at 10am tomorrow you must attend the office of Community Corrections in Bathurst Street, Hobart for the fitting of an electronic monitoring device and induction arrangements relating to this order.

I also make a community correction order, to operate for 2 years, with a condition requiring you during that period to satisfactorily perform and complete 100 hours' community service as directed by a probation officer or a supervisor.

Pursuant to s 21(1)(b) of the *Crime (Confiscation of Profits) Act* 1993 I order you to pay a pecuniary penalty of \$790 to the State of Tasmania. I also order that all items listed on the Property Seizure Record on page 14 of the Crown papers, except for item 18, be forfeited to the State of Tasmania. I make an order pursuant to s 36B(2) of the *Misuse of Drugs Act* 2001 requiring you to pay costs of analysis in the sum of \$8,121.