

3 NOVEMBER 2021
GEASON J

Joshua James Corbett, you have pleaded guilty to trafficking in a controlled substance, namely cannabis. You have also entered pleas of guilty to a number of related summary offences on Complaint Number 53880/20, being Charges 1, 4, 5, 6, and 8.

On 12 August 2020 at around 4.50pm, Tasmania Police intercepted you as you drove your car into the driveway of Forbes Street, Devonport where you lived with your mother.

You were asked to submit to an oral fluid test, and refused, so you were taken into police custody. You were searched, and 40 dexamphetamine tablets were found in your pocket. You were arrested and taken to Devonport Police Station.

At the police station, you submitted to an oral fluid test. You were then held for investigation in relation to the dexamphetamine tablets.

Police obtained a search warrant for your address at Forbes Street. At approximately 8.45pm that day, they attended that address to execute the warrant in your presence. When asked whether they would find anything, you replied '*marijuana*'.

The residence at Forbes Street comprised a main house, where your mother lived. At the rear of the property was a unit where you lived. The unit contained a single open room with a bed, couch and bar area.

At the rear of the unit was another room, which was partly hidden by an upright shelving unit. Access to the room was also covered by plastic sheeting. Inside the room was a sophisticated temperature and humidity-regulated hydroponic ‘grow room’, containing 21 cannabis plants. One of the plants was mature, while the others were seedlings.

In accordance with Schedule 1, Part 3 of the *Misuse of Drugs Act*, a trafficable quantity of cannabis is 20 individual plants.

There was a quantity of equipment inside the grow room, which made up the hydroponic setup, including five large lights and reflectors with globes; five ballast units; a timer box; a thermal controller; two air filters; fan controllers and grow light.

Inside the main house at Forbes Street, police located five bags of cannabis weighing 85.6 grams in total, and two smoking devices. A bag containing cannabis, weighing approximately 14.98 grams, was also located in the glovebox of your car.

In total, 100.58 grams of cannabis was located at the address, inside the main house, the unit, and your car.

Following the search, you were taken to Devonport Police Station. You participated in a record of interview, and stated amongst other things:

You built a room out the back of your mother's house for you to sleep in, and half of the room was divided into a grow room. You acknowledged that there were

approximately twenty cannabis plants in that room. You admitted that everything seized by police during the search was yours, save for the ice pipe and some of the chemicals located there. You said that when you get depressed, you take a couple of dexamphetamine, but you try not to do so on a regular basis. You told Police that you were growing the marijuana for yourself, and the purpose of that was to hopefully get between one and two years' worth of cannabis. Your intention was only to have eight plants, and generally you only grow two to three for yourself, but you did not want to get caught by your mother so you grew extra on this occasion, so that you only had to do it once and would not have to do it again. You said that you have been growing cannabis on and off for seven or eight years. You told Police that you had set up an automated watering and climate control system in the grow room, that required monitoring every 24 hours. You had sold someone marijuana '*a long time ago*'. You told Police you are currently unemployed, that you smoke maybe 10 to 20 cones a day if you are not doing anything else and said that an ounce of cannabis ordinarily would last you a month. You denied that messages located on your phone to which I will refer in a moment related to the sale of cannabis.

That phone was inspected by police, and messages were located on the device which were suggestive of the sale of cannabis. The majority of the messages appeared to have been sent and received on the day of your arrest. There were references of to you dropping off 'that ½', a likely reference to half an ounce of cannabis; that you had a couple of 'bush bags' for \$200; and another message stating that you had 'bush sausages' (bags of cannabis) for \$200.

It is estimated that, had the 21 plants been allowed to grow to their fullest potential, the total yield of cannabis would have been 105 ounces. The estimated street value of that yield is \$31,500.

The Crown asserts that you possessed and guarded or concealed the 21 plants that were found during the search with the intention to sell at least some of them. That assertion is supported by the text messages that were found on your phone.

An analysis of the oral fluid sample provided by you detected amphetamine, including the ingestion of dexamphetamine, and THC. You had consumed these prior to the intercept on 12 August 2020.

You were charged and bailed on 12 August 2020. You have not spent any time in custody in relation to this matter.

Mr Corbett by your actions you have assisted in the dissemination of this drug and the fact that you were willing to do so requires a punishment which reflects the need for personal deterrence as well as a sentence which deters others. Activities such as yours represent the means by which drugs are introduced into the community. Whatever you might think about the law in relation to this drug, it is illegal.

On a positive note, I am told that you are in the process of commencing a new business and it is hoped that you can make a go of that business and make a positive contribution to your community.

I note your prior convictions. They are relatively minor, but they underscore an ambivalent attitude to the law relating to drugs and drugs and driving, and also emphasise the need for a sentence which deters you from future offending.

I take a count of your plea of guilty. It is not an early plea, but there is some utilitarian benefit nonetheless and it attracts a modest reduction in sentence for that reason. I will discount the sentence I would otherwise have imposed by 5% in recognition of that plea.

In my view however, in order to achieve the relevant sentence objectives, a term of imprisonment is required for this offending. I convict you and I sentence you to 12 months imprisonment. In the circumstances and to encourage your rehabilitation, I have decided to suspend that sentence on condition that you commit no offence punishable by a term of imprisonment for the next two years. I remind you that cannabis use is one such offence.

The Crown makes application pursuant to s 38 of the *Misuse of Drugs Act* 2001 for an order that the items seized on 12 August 2020, and listed as items 1, 3-5, 8-12, 14, 16-18 and 20-27 on Property Seizure Record Receipt 201771, be forfeited to the State of Tasmania. I make that order.

On the summary matters, Mr Corbett on count 1, I record a conviction. On counts 4, 5 and count 6, I record a conviction.

Count 8 is the driving matter. This is a subsequent offence for the purposes of the *Road Safety Alcohol and Drugs Act* and attracts a higher penalty than a first offence. Driving under the influence is a serious matter because of the risk it creates for other road users and it requires a strong deterrent penalty. I disqualify you from holding or obtaining a drivers licence for a period of 16 months and I fine you \$800.

The effect of the penalty is that you have a sentence of imprisonment hanging over you but you will not have to serve that sentence if you stay out of trouble for two years. You should aim to stay out of trouble for longer than that of course. But if you do commit an offence punishable by a term of imprisonment, you may be required to serve that 12 months that I have just imposed, so there is a very good reason for you to stay out of trouble and get on developing that business and making a go of that.