

Terry Powell, you plead guilty to trafficking in a controlled substance and to cultivating a controlled plant for sale. I also agreed to deal with your plea of guilty to using cannabis, possessing and using methylamphetamine, possessing MDMA and two counts of possessing a thing used for the administration of a controlled drug.

The trafficking and cultivating charges both involve cannabis. On 3 November 2021 the police went to your home at Gray, near St Marys. They found, in various locations and quantities throughout the house, almost eight kilograms of harvested cannabis, and two cannabis plants growing in a hot house. Just over two kilos was already packaged, mostly into snap lock bags containing about an ounce. Messages found on your mobile phone were obviously related to the sale of cannabis by you to others.

The police also found six smoking devices, some cannabis oil, 10 MDMA tablets, and .1 of a gram of methylamphetamine. When interviewed by the police you told them that you lived in your home alone, that all of the cannabis was yours and that you were a heavy cannabis user. It is not disputed that the cannabis oil, the methylamphetamine and the MDMA were for your personal use. You plead guilty to cultivating for sale and trafficking on the following basis. To avoid having to pay for cannabis, you grew six plants in your garden from seed intending to use it yourself. When the plants flourished, and the extent of the likely yield became apparent, you decided to sell some of the crop. Before the police arrived you had made only a small number of sales to existing users, you say about half a dozen sales of ¼ of an ounce for \$50 each. However you accept that you would have sold at least some of the cannabis found in your possession had the opportunity arisen, and some had been packaged for sale. You intended to use some of the other unpackaged cannabis for oil because it lasted longer. Some of the unpackaged cannabis was leaf and stalk which was of little value, even for oil. Some of the unpackaged cannabis was bud. If all of the cannabis was in saleable form and had been sold in the one ounce quantities it could have been worth at least \$60,000. However, as I have explained, some of the cannabis material was not saleable, you did not intend to sell all of the remainder and, in your circumstances, the likely return was substantially less.

You are 42. You entered an early plea of guilty. Twenty years ago you were fined for some summary drug offences. Since then your record is for driving offences including a relatively recent conviction for three counts of driving with an illicit drug in your blood. You have never received a prison sentence. Your most recent employment was as a plumber's labourer for four or five years, but you lost that job about 18 months ago as a result of the pandemic. The loss of your employment co-incided with separation from your wife who retains care of your two daughters, one of whom has high needs. The combination of circumstances, including loss of your driver licence, meant that you have not been able to find further employment. You were unable to maintain your rental property and have been living in a caravan in St Helens. You cannot pay a fine. Your unstable living arrangements and personal circumstances preclude a drug treatment order or home detention order. I do not think that your crimes warrant an actual term of imprisonment but a wholly suspended term is necessary, in particular to make clear to you what will very likely happen if you act in this way again. I will combine the suspended term with a period of supervision with the aim of addressing your drug use and anti-social associations.

Terry Powell, you are convicted on the indictment, that of trafficking in a controlled substance, and on complaint 32862/20, count 5, cultivating a controlled plant for sale. You are also convicted on the same complaint, counts 6 to 11 inclusive. The remaining counts are dismissed as subsumed in the indictment. I order that the six glass smoking devices seized on 21 May 2020 be forfeited to the State. I impose one sentence. You are sentenced to imprisonment for five months, wholly suspended 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) you will be 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 within three clear days.
- (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; and,
 - vi. attend and complete the EQUIPS addiction program as directed by a Community Corrections officer.