

Dawn Ward, you plead guilty to two counts of trafficking in a controlled substance and one count of dealing with the proceeds of crime. In addition I agreed to deal with some associated summary offences. Taken together, the charges demonstrate that you engaged in the commercial sale of illicit drugs for the period of almost a year between November 2019 and October 2020.

The first count of trafficking was committed between 17 November 2019 and 6 May 2020. During that period you were engaged in the business of selling cannabis and methylamphetamine. The conduct is demonstrated by the following facts.

On 14 January 2020 you flew from Launceston to Melbourne and back on tickets you obtained under a false name, thereby committing an offence under the *Criminal Code* 1995 (Cth), s 376.4(2). On your return to Launceston you were found to be carrying two snap lock bags containing a total of 111.4 grams of crystal methylamphetamine. You were arrested and your home was searched. In addition to electronic scales and a phone you had at the airport, the police found two notebooks, a Samsung tablet, another phone, three snap lock bags each containing about a point of ice and another bag containing just over two points, more snap lock bags and another set of electronic scales. Admissions you made to the police combined with examination of frequent text and Facebook messages found on your phones established that you had been in the business of selling cannabis and methylamphetamine since late 2019. From your home you were engaging in regular retail sales of small amounts of both drugs to users who knew you were a source of supply. One of the notebooks included a tick sheet containing 53 names. Between 6 and 14 January 2020 there were 22 text message exchanges relating to the sale of cannabis and 75 exchanges relating to the sale of methylamphetamine. The methylamphetamine found in your possession on 14 January 2020 was worth, depending on the quantities in which it was sold, somewhere between \$32,000 and \$115,000. A higher potential return is suggested in this case because you were engaging in smaller street level deals. The phone messages also suggested that you had arranged another plane trip on 16 January.

Notwithstanding your apprehension on 14 January, two weeks later on 30 January you were a passenger in a car intercepted by the police in Campbell Town. A drug detection dog gave a positive indication to the presence of drugs. You were taken to the police station. It was ultimately established that you were in possession of a small wrapped package containing four snap lock bags. Each bag contained methylamphetamine, respectively 7.8 grams, 1.6 grams, 0.2 grams and 2 grams. The package was located despite your efforts to hide it from the police by passing it to another person who threw it over a fence. You also had a set of knuckle dusters. Again you were charged and bailed.

The next relevant events took place on 9 April 2020 when a car you were driving was intercepted in Ravenswood. You were a disqualified driver. A subsequent oral fluid test returned a positive result for methylamphetamine, amphetamine, MDMA and MDA. Inside your bag were knuckle dusters, digital scales and some empty snap lock bags. You later admitted smoking methylamphetamine with a pipe. There was another set of digital scales on the back seat and a \$50 note in the driver side door. Your female passenger also had snap lock bags, \$2300 in cash in her purse, \$845 in cash in her jacket and two snap lock bags containing 0.2 and 0.4 grams of methylamphetamine respectively. Your phone contained text message exchanges with at least 20 people about sales of cannabis and methylamphetamine on a daily

basis between 10 March 2020 and 9 April 2020. The same phone contained Facebook messages providing further evidence that you had been making retail sales of cannabis and methylamphetamine between 27 November 2019 and 9 April 2020. Some of the messages also disclosed occasions on which others made sales of cannabis and methylamphetamine on your behalf. A tick list on the phone contained at least 40 names and recorded transactions between \$50 and \$900.

Next, on 6 May 2020, the police attended your home with a search warrant. They found new snap lock bags, digital scales, two bags containing 0.01 grams and 0.41 grams of methylamphetamine respectively, \$208 in cash, an ice pipe and a digital thermometer the police believed to have been stolen. On your phone were more Facebook messages evidencing sales of drugs from 13 April, only four days after your previous arrest, through until 6 May, the day of the search. The messages established that you had once again resumed selling cannabis and methylamphetamine on a daily basis, just as you had previously been doing. When you were interviewed you admitted that you had smoked methylamphetamine on 5 May 2020, the night before the search.

Your conduct, the evidence of the searches on 14 January, 30 January, 9 April and 6 May 2020, the phone evidence of you facilitating sales yourself and by others on your behalf, and the limited admissions you made combine to establish that you were in the continuous business of trafficking drugs for the period of almost six months between 19 November 2019 and 6 May 2020. That is the first trafficking charge.

The second charge of trafficking came about on 28 July 2020 when you were seen by the police driving in Newnham. Again, you were arrested for driving while disqualified. A drug detection dog was deployed and your vehicle was searched. Inside was an ice pipe, five snap lock bags containing a total of 0.42 grams of methylamphetamine, a snap lock bag containing 45 MDMA pills with a total weight of 14.6 grams, three snap lock bags containing a total of 13 grams of MDMA in crystalline form, various prescription medications, unused snap lock bags, digital scales, \$9,915 in cash and two mobile phones. You falsely told the police that the money had been withdrawn from superannuation accounts. The phones could not be analysed because you did not provide the PIN. The basis of the charge is the MDMA pills which you intended to sell. The State does not proceed with a separate charge in relation to the cash. You accepted that it was unexplained wealth and it was forfeited to the State.

The final charge, dealing with proceeds of crime, arises on 1 October 2020. Again the police saw you driving. The drug dog was called in and gave positive indications of the presence of drugs in the car. You had a small bag containing methylamphetamine and a mobile phone. Also in the car was your handbag with a wallet containing \$4265 in cash, a tick list referring to names and amounts of money, and three Bitcoin receipts. The money was proceeds of drug sales. Your phone disclosed text message exchanges evidencing sales of cannabis and methylamphetamine over the month beginning 1 September and ending on that day. In relation to those transactions you are charged with selling those drugs, and not trafficking. The maximum penalties which attach to those offences are lower, but the nature of the conduct which gives rise to the charges is of substantially the same nature, that is daily sales of retail quantities of both drugs.

When these crimes were committed you were aged 25 and 26. You are now 27. You come from a background characterised by violence, neglect and both psychological and physical abuse. Your parents were both drug users. Your father was a criminal who died in prison not long ago. You were educated only to grade 7. By age 13 you were subject to care and protection orders

and either homeless or living in foster homes. You began using drugs, cannabis at age 12, speed and MDMA from age 15 and Ice from age 17. Your own relationships until recently resulted in you being the subject of family violence. You have one child from a previous relationship who is in full time care of child and Family Services. As a youth you committed summary offences which resulted in a suspended sentence of detention and other community based orders. As an adult your record is mostly for driving offences and for offences related to your personal drug use. All resulted in community based orders. You were not sentenced to imprisonment until early 2021, after these crimes. On 24 March 2021 you were sentenced by a magistrate to a total term of seven months from 20 August 2020 for dishonesty, bail offences, and driving offences including driving with an illicit drug in your blood and numerous counts of driving while disqualified. You were disqualified from driving for 18 months from 24 March 2021. You were released on 31 March 2021.

The crimes for which I am to sentence you were committed at around the same period as the offences for which you were sent to prison. At that time you were heavily using Ice on a daily basis. I accept that there is a demonstrable link between your offending and your substance abuse. I have little doubt that while you were using drug sales to fund your living expenses, most of the money was to fund your own excessive drug use. Your addiction was such that it continued even though it may have presented a risk to your child. Whilst sums of cash and significant quantities of drugs were found in your possession there is no evidence of the accumulation of any substantial wealth. The driving offences are also, I find, linked to your substance abuse.

From this terrible history there are some positive signs, particularly over the last year or so. I sought a report of your suitability for the making of a drug treatment order. It reports that since 2020, which I observe coincides with your imprisonment, there has been no resumption of significant drug use. During your life your compliance with community based orders and court orders has not been good, but since your release you have sought medical and counselling assistance, you have engaged with Child and Family Services, and sought help from agencies of Anglicare and the Alcohol and Drug Service. Reports from those agencies are positive. You have commenced a new relationship and assumed some responsibility for care of your partner's children. You are expecting another child in September. There are some health complications of your pregnancy although care would be available in prison. You are permitted structured time with your daughter which is conditioned on random drug testing. Your plea of guilty is in your favour although it is difficult to see that you had a defence to any of the charges. References from friends and from your older sister indicate that you have some support from others in the community who appear to be living law abiding lives.

Whilst those factors are in your favour, other factors point against lenience. For almost a year you continued to sell drugs, and have others sell on your behalf, even despite having been apprehended a number of times and released on bail. The quantity of Ice that you brought from Victoria to Tasmania in January 2020 was significant. Within the facts I have been given, and the evidence available to the prosecution, the extent of your trafficking is difficult to quantify. Sale of illicit drugs, Ice especially, causes a lot of harm to the community and to others. Issues of general deterrence and punishment are also important.

Balancing all of those factors I have determined that the community will benefit if you are permitted the opportunity to rehabilitate yourself without return to prison. It is appropriate to make a drug treatment in all the circumstances. Such an order favours rehabilitation over punishment. I am going to make such an order but you should be left with no doubt that if you

do not comply with the terms of the order you will go to prison. It will not succeed unless you fully commit to it. I make the following orders:

1. Pursuant to the *Misuse of Drugs Act*, s 37B, I assess the reasonable expense of and attending the analysis and examination of the drugs located on 14 January and 28 July 2020 in the total sum of \$8638 and award that sum against you as part of the costs of the prosecutor. In respect to that sum and any other sum to be paid by you as a result of these orders you have 28 days, but you may enter into a repayment arrangement.
2. I order that the following items be forfeited to the State:
 - items 1, 2, 4, 6, 7, 8, 9, 12 and 13 on property seizure record 131667;
 - items 2 and 3 on property seizure record 190925;
 - item 4 on property seizure record 175816;
 - items 2, 3, 4, 5 and 12 on property seizure record 185153;
 - items 1, 2, 5, 7, 9, 10 and 14 on property seizure record 185139; and
 - items 1, 2, 3, 4, 12, 16 and 17 on property seizure record 172622.
3. I am satisfied that the sum of \$208 seized on 6 May 2020 and the sum of \$4265 seized on 1 October 2020 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.
4. You are convicted on each count on the indictment.
5. On complaint 30782/2020:
 - (a) you are convicted on count 6, possessing a smoking device. On that count I record a conviction and make no further order;
 - (b) on counts 7 and 8 on that complaint, the charges under the Commonwealth *Criminal Code*, 376.4(2) from flying on 14 January 2020 under a false name, you are convicted and sentenced to imprisonment for one month. I order that you be released forthwith, without being required to serve any of that term, upon you giving security by recognizance without surety in the sum of \$1,000 that you will be of good behaviour for a period of two years from today. I impose a condition of the recognizance that you comply with the terms of the drug treatment order I am about to make. The purpose of the order is to provide an incentive for you not to re-offend and to encourage your rehabilitation. If you fail to comply with a condition of the recognizance, for example by committing some further offence, you may be called upon to pay the sum of \$1,000, and a court may order that you serve all or part of the term in addition to any other term you may be required to serve. Had I ordered actual imprisonment on these charges and the trafficking charges, I would have made that sentence cumulative.
 - (c) the remaining counts on the complaint are dismissed.
6. Complaint 30783/2020 is subsumed in the indictment and dismissed;
7. On complaint 30975/2020:

- (a) count 1 is subsumed and dismissed;
 - (b) you are convicted on counts 2 and 3, using cannabis and possessing a dangerous article, the knuckle dusters. On those counts I make no further order.
8. On complaint 33226/2020:
- (a) counts 3, 4, 5, 7 and 9 are dismissed;
 - (b) you are convicted on counts 1, 2 6 and 8. On count 2, possessing a dangerous article, the knuckle dusters and on count 6, using methylamphetamine, I make no further order;
 - (c) on count 1, driving while disqualified on 9 April 2020, you are convicted. It is to be part of a global sentence I will shortly impose;
 - (d) on count 8, driving on 9 April 2020 with an illicit drug in your oral fluid, you are convicted. It is to be part of a global sentence I will shortly impose.
9. On complaint 32910/2020:
- (a) counts 1, 2, 4 and 6 are dismissed;
 - (b) on count 3, possessing a smoking pipe on 6 May 2020, on count 5, using methylamphetamine on 5 May 2020, and on count 7, unlawfully possessing the stolen thermometer, you are convicted but I make no further order.
10. On complaint 33494/2020:
- (a) counts 1, 3 and 4 are dismissed;
 - (b) on count 5, possessing methylamphetamine on 28 July 2020, and on count 6, possessing a glass smoking pipe on the same day, you are convicted but I make no further order;
 - (c) on count 2, driving while disqualified on 28 July 2020, you are convicted. It is to be part of a global sentence I will shortly impose.
11. On complaint 34596/2020:
- (a) count 1 has already been dismissed;
 - (b) count 5 is subsumed and dismissed;
 - (c) on count 2, possessing methylamphetamine on 1 October 2020, you are convicted but I make no further order;
 - (d) on counts 3 and 4, selling methylamphetamine and cannabis between 1 September 2020 and 1 October 2020 you are convicted. They are to be part of the global sentence I will shortly impose.
12. On the driving charges, namely complaint 33226/20, counts 1 and 8, complaint 33494/20, count 2 I impose one sentence. You are disqualified from driving for nine months cumulative to any period of disqualification you are serving or liable to serve. Your driver licence is already cancelled. You are sentenced to imprisonment for two months, wholly suspended for two years. It is a condition of that order that, while it is in force, you do not commit another offence punishable by imprisonment. If you breach that condition then the sentence will be activated unless that is unjust. I impose a further condition that while the order is in force that you comply with the terms of the drug

treatment order I am about to make. Had I ordered actual imprisonment on these charges and the trafficking charges, I would have made that sentence cumulative.

13. On the indictment and the counts of selling a controlled substance, complaint 34596/20, counts 3 and 4, I impose one sentence. I make a drug treatment order pursuant to the *Sentencing Act* 1997, s 27B. The custodial part of the order is a term of imprisonment of 21 months. You are not required to serve all or any of the custodial part of the drug treatment order unless it is activated. It may be activated if you fail to comply with the treatment and supervision part of the order which has the following core conditions:
 1. you must not, in Tasmania or elsewhere, commit another imprisonable offence;
 2. you must attend the Magistrates Court of Tasmania, in Launceston at 2.15 pm on Tuesday 21 June 2022 and thereafter attend the Magistrates Court or this Court as and when directed by the court;
 3. you must report directly to a court diversion officer at Community Corrections, 111 Cameron Street, Launceston and in any event within two clear working days of today;
 4. you must undergo such treatment of your illicit drug use problem as directed by your case manager or court diversion officers or as from time to time specified by the Magistrates' Court or this Court;
 5. you must report to, and accept visits from, your case manager or court diversion officers;
 6. you must, unless there are special circumstances, give your case manager at least two clear working days' notice before any change of address;
 7. you must not leave Tasmania except with the permission, granted either generally or in a particular case, of the Magistrates Court or this Court;
 8. you must comply with all lawful directions of the Magistrates Court or this Court;
 9. you must comply with all reasonable directions of your case manager and court diversion officers concerning the core conditions and program conditions of this order.

There will be further program conditions of the order that:

10. throughout the duration of the order you must reside at [address] and not change that address without prior approval of the Court or your Court Diversion Officer and that you not be absent from that address between the hours of 10 pm and 7 am and present yourself during those hours to a police officer your court diversion officer or case manager if required to do so;
11. you must not use or possess any controlled substance within the meaning of that term in the *Misuse of Drugs Act* 2001;
12. you must not use any medication unless prescribed to you by a treating medical practitioner, approved by your court diversion officer and in accordance with the medication directions for use;
13. you must submit to random testing for the presence of drugs as directed by your case manager or court diversion officers;
14. you must submit to urinalysis as directed by your case manager or court diversion officers;
15. you must submit to oral fluid testing as directed by your case manager or court diversion officers;

16. you must submit to detoxification or other treatment, whether or not residential in nature, as directed by your case manager or court diversion officers;
17. you must not associate with persons or classes of persons as directed by your case manager or court diversion officer;
18. you must attend for assessment, and if deemed suitable, participate in and complete any vocational, educational, employment, rehabilitation or other programs, including the EQUIPS Addiction Program as directed by your case manager or court diversion officers;
19. you must attend counselling and/or treatment as directed by your case manager or court diversion officers;
20. you must submit to medical, psychiatric or psychological treatment as directed by your case manager or court diversion officers;
21. you must maintain the use of, and remain contactable by, a mobile phone capable of sending and receiving messages about drug testing, case management and/or counselling appointments from your case manager and court diversion officers; and,
22. you must remain contactable at all times.