

STATE OF TASMANIA v PAUL MARTIN RILEY
COMMENTS ON PASSING SENTENCE

1 DECEMBER 2022
PEARCE J

Paul Riley you plead guilty to one count of trafficking, one count of cultivating a controlled plant for sale and one count of causing a controlled plant to be carried by post. That latter count is a Commonwealth charge. I also agreed to sentence you for the summary charges of supplying and using cannabis. Further summary counts of cultivating and possessing cannabis are subsumed in the indictable charges.

On 27 July 2021 you posted an express post parcel containing just under half a kilogram of cannabis in eight zip lock bags inside tins. The parcel was posted from the St Mary's Post Office to an address in Victoria. By doing so you supplied cannabis, and committed the offence under the *Crimes Act* (Cth), s 85W. The cannabis in the parcel was discovered during routine drug screening before it left Tasmania. The police investigation identified you as the sender and led the police to search your home at Goshen, in north east Tasmania, some months later on 11 November 2021. They discovered that the second storey of your home was almost entirely devoted to the hydroponic cultivation of cannabis. Nineteen cannabis plants were growing in a large room fitted with eight high powered lights, a large carbon filter and ducted aeration. Those plants each contained a large quantity of mature cannabis almost ready to harvest. A further 20 plants were found in three grow tents fitted with lights, carbon filters and fans. The police found a mother plant, a plant from which cuttings are taken for a further generation of plants. They also found a bag containing about 120 grams of cannabis bud drying in a tub. Other cannabis material, mostly leaf and stalk of little value was found.

You admitted when interviewed that all the police found at your home was yours.

You are now aged 58. You currently live alone because your wife lives overseas. You have owned the property at Goshen for about 22 years, but lived and worked in the construction industry in Victoria between about 2011 and 2019. When you returned your home had fallen into disrepair and your plans to sell it to fund your retirement were compromised. You told the police that you spent the last of your money on the hydroponic set up in the hope of generating more money. You are a long time cannabis user. A report from a psychiatrist in 2019 suggests that you were then suffering financial hardship which resulted in what was likely to be a major depressive disorder with low mood, poor motivation, social isolation, sleep disturbance and anxiety. He prescribed medication but it is also apparent that you were self-medicating with cannabis. The growing arrangement you established was not highly sophisticated, but it went far beyond what was required for your personal use and was motivated by financial gain. The cannabis you posted in July was to a person close to you so that they did not have to purchase cannabis themselves. You are charged only with supply because you did not expect anything in return. The use charge arises from your admission of having used cannabis a few days earlier.

Your early plea of guilty and admissions are in your favour. Despite the potential for a very valuable harvest, none of the hoped for financial gains came to fruition. There is no evidence of any networks for sale or supply. There was no evidence of large quantities of previously harvested cannabis although the amount you sent in July must have been grown earlier. However a significant factor in sentencing is that you have previously been sentenced for similar offences. In 2004 you were sentenced to imprisonment for 12 months wholly suspended, and fined \$7500, for trafficking in cannabis and cultivating cannabis for sale. You were found with a hydroponic set up of very similar size. That sentence did not deter you. In

2008 you were again found guilty by a jury of trafficking and sentenced to imprisonment for nine months. Again the police found a hydroponic cultivation setup of a similar nature. It could hardly be said that you were not aware of the possible consequences of your offence on this occasion despite the lapse of about 14 years since that last crime. The need for punishment and specific and general deterrence are important sentencing factors. On the Commonwealth charge I am required to take into account all of the factors referred to in the *Crimes Act*, s 16A which, to the extent that they are relevant here, I have already addressed. You were remanded in custody on 25 November 2022 and so the sentence is to commence then.

Paul Riley, you are convicted on the indictment and on counts 1, 4, 5, 6 and 7 on complaint 35657/21. Counts 2 and 3 on the complaint are subsumed in the indictment and dismissed. I order that the following exhibits listed on police property record 303606 be forfeited to the State, namely 6 ballasts, 2 carbon filters, 5 grow lights, 8 grow lights, 8 ballasts, the large carbon filter, the invoices and 4 coffee tins. On the indictment, the charge of causing a controlled plant to be carried by post, you are sentenced to imprisonment for three months from 25 November 2022. On count 6, using cannabis, I make no further order. On count 7, which also applies to the cannabis you posted, in light of the other sentences to be imposed I make no further order. On count 1 trafficking, and count 4, cultivating cannabis for sale, I impose one sentence. You are sentenced to imprisonment for 12 months also from 25 November 2022. I order that you not be eligible for parole until you have served half of that term.