

Shanelle Delaney, you plead guilty to trafficking in a controlled substance. It follows from your plea, as the case was brought against you, that you admit that during the period of about seven weeks between 1 September 2020 and 21 October 2020 you conducted a business of a commercial and systematic kind involving the continuous sale and distribution of controlled drugs. The drugs in which you trafficked were methylamphetamine, 1,4-butanediol and 4-butyrolactone. For ease of reference I will call the drugs by names commonly used for each. Methylamphetamine in its crystalline form is referred to as Ice. One of the names used for 1,4-butanediol is liquid G, and one of the names used for 4-butyrolactone is GBL. Liquid G and GBL are in liquid form, sold by the millilitre and ingested orally. They are closely related to a drug colloquially known as GHB and convert to that drug once ingested. It is a depressant and is used as a recreational intoxicant similar to alcohol.

An indication of the nature and scale of your trafficking comes from various sources. You were actively ordering drugs which were supplied, as far as is known, through Australia Post from interstate:

- on 4 September 2020, a bottle containing 180 ml of liquid G;
- on 7 September 2020 a bottle containing 192 ml of liquid G;
- on 17 September two parcels respectively containing 28.3 grams of Ice and a bottle containing 45 ml of GBL;
- on 1 October 2020 an ounce, 28.35 grams, of Ice;
- on 5 October 2020 an unknown quantity of GBL;
- on 13 October 2020, 250 ml of liquid G;
- on 21 October 2020, 28.1 grams of Ice; and
- also on 21 October 2020, 549 ml of liquid G.

Not all of these deliveries found their way to you. The deliveries on 4 September, 7 September and 17 September were intercepted by the police. The Ice intercepted on 21 October was removed and replaced with innocent crystals and the delivery to you was then monitored, at which time you were apprehended.

Lawful monitoring of your phone prior to 21 October and further examination of it after then, disclosed numerous text messages and email conversations relating to the importations and evidencing regular drug sales during that seven week period. The communications revealed ordering the drugs and arranging and careful monitoring of the deliveries. The text messages revealed sales, with you in regular contact with persons requesting supply and informing of availability. In some cases the communications revealed the lack of supply which, unknown to you, resulted from the deliveries having been intercepted by the police. There were other communications chasing up payment for sales made on credit, withholding supply until payment was made. You were using encrypted email and messaging services set up to delete sent and received messages within one day.

There were various indications of the prices you paid to suppliers with whom you were in contact. You paid \$500 for the 250 ml of liquid G delivered on 13 October. You opened an account with an Australian crypto currency platform in May 2020 and on 12 October sent almost \$11,000 from that account for an ounce of Ice.

On 21 October 2020 your house was searched. Amongst the items the police found was the container with 549 ml of liquid G which had been delivered that day, electronic scales, empty zip lock bags, \$3,250 in cash most of which was in a safe, a security camera system set up in the lounge room, small quantities of Ice, liquid G and GBL, and a tick sheet on your mobile phone referring to debts owed by six customers and to deposits of \$8,000 and \$3,000 into your crypto-currency account.

The total amount of Ice you imported or attempted to import was four ounces, and almost 1200 ml of liquid G not including the unknown quantity on 5 October, as well as 58 ml of GBL. As I have already indicated, two one ounce deliveries of Ice were seized along with some of the liquid G. However the total value of Ice you arranged to be imported, depending on the quantities in which it was sold, ranged between \$60,000 to about \$280,000. You told the police that you paid \$10,000 for an ounce of Ice to suppliers from Victoria on the basis that, at the time, the Tasmanian price was double that. You sold half for \$10,000 to recoup your money and either sold or used the balance. You obtained a substantial financial benefit. You operated two bank accounts as well as the crypto-currency account. Not all of the proceeds can be identified but the quantifiable benefit in cash and deposits is \$39,437.50. When you were interviewed you made some limited admissions.

The reason that drug trafficking is a serious crime have been stated many times. Ice in particular is a drug which causes great harm to individuals and the community, both directly and indirectly. Sentences must punish for, and deter from, engaging in trade in illicit drugs. The nature and scale of your trafficking is such that in the usual course a sentence of actual imprisonment would be inevitable. However, I was asked to consider making a drug treatment order so as to give priority to the possibility of your rehabilitation in favour of the other sentencing aims I have outlined. As I will explain, your personal circumstances as have been outlined to me are exceptional. They not only justify lenience but also focus on the possibility that you may be rehabilitated.

The submission is based on matters outlined by your counsel, a report from a forensic psychiatrist Dr Michael Evenhuis dated 25 July 2022 and an assessment report prepared by Community Corrections. You are now aged 38. You have care of two daughters aged 17 and 11. Your record is only for traffic regulation offences until 2015. Since then you have committed a number of drug or alcohol related driving offences, the most recent being in 2019. You were made subject to a period of supervision in 2015 for a drug driving offence. In 2016 you were given a short but wholly suspended sentence of imprisonment plus more supervision for other driving offences. However you have no prior convictions relating to the sale or distribution of drugs and you have never been to prison.

In life you have been subjected to a series of, to say the least, most unfortunate and difficult circumstances. Dr Evenhuis describes a background of complex trauma. Your early home life was affected by violence at home. Your father was murdered when you were 7. Your brother was killed in an accident a couple of years later. Your mother developed a problem with drugs and you became and remain estranged from her. You were the subject of further abuse and neglect by another family member. After being placed into foster care you were enrolled in a program for troubled youth. You began to use cannabis at age 13 which progressed to a daily speed habit by the time you were 17. Not surprisingly this led to problems at school, despite which you managed to complete years 10 and 11.

Your abuse of drugs continued. You used illicit drugs with the father of your eldest daughter a man well known to the criminal justice system. You began a second relationship in 2007 with another man but that relationship was also fuelled by violence and excessive drug use, so much so that he was eventually imprisoned for offences against you. Your second daughter was born in about 2011 or 2012, but you have continued to use drugs until recently. At the high point of your use you administered methamphetamine daily, heavily used GHB as well as abusing alcohol to the point of alcoholism. According to the assessment report you last used GHB in October this year and methylamphetamine in February.

Despite all of the matters I have referred to you were, apparently as a functioning addict, managing domestically and maintaining stable employment at the ANZ Bank. You worked there between 2003 and 2017 as a teller and acted as assistant branch manager. However, to add to the insults to which you have been subjected you were in 2017 the victim of an armed robbery at the Bank in the course of which you were threatened by a violent offender with a knife and a hammer. It did not end there. After the robbery shots were fired at your house by associates of the perpetrator. You have not been able to return to work since and the incident exacerbated existing problems with your mental health. You have PTSD and anxiety. It is not clear whether that condition resulted from the robbery or whether the robbery and its aftermath just made it worse. In any event, you have a significant history with the Launceston Adult Mental Health Service in the context of the PTSD, childhood trauma, domestic and family violence and anxiety and depressive disorders. You spent three days in ICU in 2021 after attempting to take your own life. You are currently medicated for ADHD, panic disorder and bipolar affective disorder and you are required to attend a pharmacist daily for the medication. Despite this medication regime you are not currently receiving regular treatment from a psychologist or mental health practitioner. It is not put that there is a causal link between your mental health issues and the trafficking, but it is not contested, as Dr Evenhuis explains, that your medical health would make prison more difficult for you.

In this context it is put on your behalf that a principal motivation for your criminal conduct was to source drugs for yourself, and that you sold drugs to finance your own addictions. I do not see that this fully explains the extent of your trafficking, but it is also put that you were mostly selling to a limited group of regular customers and at the same time you experienced pressure from others that you found difficult to resist. You thought that there was no way out.

Balancing all of those factors I have determined that, despite the seriousness of your crime, the community will benefit if you are permitted the opportunity to rehabilitate yourself without going to prison. I was asked to also consider a home detention order, which is another alternative to actual imprisonment, but the combination of addiction and mental health factors make you unsuitable. I am prepared to make a drug treatment. Such an order favours rehabilitation over punishment. Although I am going to make such an order 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. You are convicted on the indictment.
2. Pursuant to the *Misuse of Drugs Act*, s 36B, I assess the reasonable expense of and attending the analysis and examination of the controlled substance as \$2,795 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 to pay, but you may enter into a repayment arrangement.

3. I am satisfied that the sum of \$3,250 seized on 21 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. I assess, in accordance with the *Crime (Confiscation of Profits) Act* 1993, s 22, the value of the benefits derived by you from the commission of the offence in the sum of \$36,187.50 and order that you pay to the State a pecuniary penalty equal to that sum.
5. I order that the following items be forfeited to the State:
 - all items on property seizure records 150810, 150811 and 150819;
 - items 2 and 3 on property seizure record 150812;
 - items 7, 7a and 8 on property seizure record 197842;
 - items 16 and 31 on property seizure record 197843.
6. 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 20 months. You are not required to serve all or any part 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 20 December 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 9 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 not consume alcohol or any other intoxicating substance as directed by your court diversion officer or case manager;
14. you must submit to random testing for the presence of alcohol and drugs as directed by your case manager or court diversion officers;
15. you must submit to urinalysis as directed by your case manager or court diversion officers;
16. you must submit to oral fluid testing as directed by your case manager or court diversion officers;
17. you must submit to detoxification or other treatment, whether or not residential in nature, as directed by your case manager or court diversion officers;
18. you must not associate with persons or classes of persons as directed by your case manager or court diversion officer;
19. 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;
20. you must attend counselling and/or treatment as directed by your case manager or court diversion officers;
21. you must submit to medical, psychiatric or psychological treatment as directed by your case manager or court diversion officers;
22. 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,
23. you must remain contactable at all times.