

Mr Jackson, you have pleaded guilty to one count of trafficking in methylamphetamine and one count of dealing with the proceeds of crime.

The prosecution asserts that between 10 April and 1 November 2019, you carried on a drug trafficking business, which involved importing and distributing significant quantities of methylamphetamine. It is alleged that you made regular journeys to Melbourne to purchase and transport the drug to Tasmania, where you would then sell it, sometimes in quantities sufficient for the customer to on sell to others. This was being done on a commercial basis and the quantity and value of the drugs trafficked by you were significant.

You dispute this characterisation of your trafficking activity. You acknowledge that during this period, you were addicted to and using significant quantities of methylamphetamine, but you claim that your involvement with the purchase and sale of methylamphetamine related only to providing assistance to a woman, Amy Radburn, in respect of her conduct of a drug trafficking operation. Ms Radburn is now deceased. You assert that Ms Radburn was a sex worker, and regularly travelled to Melbourne to carry on sex work there. You say that you made some trips with her, but this was pursuant to an arrangement by which you provided her with security while she was carrying on her sex work. She would purchase methylamphetamine while you were both there, primarily for the purpose of her own consumption and she would also provide you with some of the drug for your consumption. According to you, she sold to others, but this was limited to drugs which were in excess of her own needs. From time to time, she asked you to make some sales on her behalf. She also utilised your mobile phone, and your bank account to arrange and facilitate the drug transactions.

Clearly, the factual bases of sentence asserted by the prosecution and you are very different, and this difference is significant in terms of the objective seriousness of the crimes and your moral culpability for them. In order to resolve this dispute, I heard evidence from a number of witnesses, including you. It is common ground that I can only take into accounts facts which make your culpability more serious if I am satisfied of those facts beyond reasonable doubt.

Having considered all of the evidence, I am satisfied beyond reasonable doubt that the prosecution's characterisation of your trafficking activity is substantially accurate. I accept that Ms Radburn may have had some involvement in and knowledge of your trafficking activities, perhaps more than the prosecution concede, but I am satisfied that you were the primary operator of the business. There is a significant body of objective evidence which supports this conclusion. I summarise this evidence as follows:

- (a) On 10 April 2019, police seized an express post envelope addressed to you at a property owned by your mother and where you were residing at the time. The envelope contained methylamphetamine well in excess of a trafficable quantity. You have not contradicted nor explained this fact, except to claim that you know nothing about the envelope.
- (b) On 17 October 2019, you and Ms Radburn were intercepted by police at Hobart airport, after arriving on a flight from Melbourne. You were carrying a bag which contained four snaplock bags holding various quantities of methylamphetamine,

and two bags containing MDMA tablets. The majority of the methylamphetamine, 51.8 gr, was contained in a sandwich bag which was located in a small make-up bag. Your carry-on bag also contained a mobile phone and cash in the sum of \$2,800 in \$100 notes. This money is the subject of count 2 on the indictment. You claim that the make-up bag belonged to Ms Radburn and that she had put this bag into your carry-on bag at the airport, to avoid her luggage being overweight. In an interview with police conducted that day, Ms Radburn agreed that she had, in fact, placed the make-up bag into your bag but denied that it contained methylamphetamine when she did so. Swabs of the snaplock bags which contained the methylamphetamine returned high probability DNA matches to both you and Ms Radburn.

- (c) An analysis of the contents of the mobile phone found in your bag revealed numerous stored communications, including both text messages and posts on Facebook Messenger. This evidence establishes that between 26 July and 1 November 2019, there were numerous communications between your mobile telephone and a person bearing the name "Mustafa". The prosecution claims that this man is a drug dealer from whom you purchased methylamphetamine in Melbourne on a number of occasions. He was clearly located in Melbourne and the communications evidence these purchases. The timing of the communications corresponds with travel records, in particular, boarding passes which were also stored in your phone. They are also consistent with payments recorded in your bank statements for services and air fares relevant to trips to Melbourne, and with payments from your account to an account advised to you by Mustafa, as shown in the text messages. When asked about these trips and transactions when giving evidence before me, you said that you did not really know Mustafa, that he was Ms Radburn's associate, and that you only met him once when he came to see her at an hotel in Melbourne where you were both staying. He went into a room with her for about 20 minutes and you remained outside. When they came out of the room, Ms Radburn was in possession of a large quantity of methylamphetamine. Your explanation for the text message conversations on your phone which relate to the purchase of drugs is that Ms Radburn had unfettered use of your telephone for the purpose of conducting her business, and that these conversations are really between Ms Radburn and Mustafa, and have nothing to do with you. It was put to you in cross-examination that some messages contain photographs of deposit slips obviously being held by what appears to be a male hand. You conceded that this may have been you, but claim that you were once again, acting only as Ms Radburn's agent.

Your claim that the communications with Mustafa were conducted by Ms Radburn using your phone is inconsistent with the content of many of the messages. For example, a text message exchange which commences on 10 September 2019 and concludes on 20 September 2019, in my view, can only be consistent with you personally communicating with Mustafa. In those messages, there is light hearted discussion about your imminent trip to the Gold Coast with members of your family. There is no doubt that you went on that trip, you called family members to verify that it happened and that it was simply a family holiday. The trip is also clearly apparent from the boarding passes stored on your phone.

There is no suggestion that Ms Radburn went on that trip. Clearly, this conversation with Mustafa was being conducted by you and not her. The conversation about the holiday is interspersed with discussion about a planned drug transaction, and this includes your complaint that a person called “*Andrew....still owes me \$5k, he never paid me like he said he was going to while I was in Qld*”. You were clearly discussing a drug debt owed to you personally. Further, there is clear and established familiarity between you and Mustafa and reference to meeting personally when you return from the holiday. The form of greeting and the tenor of the conversation reflects that which appears in other communications at other times. All of this puts the lie to your claim that you did not know Mustafa, that you only met him briefly on one occasion when he came to see Ms Radburn at the hotel, and that communications with him about drug transactions were conducted by Ms Radburn using your phone. When given an opportunity to explain this in further evidence, you said these conversations related to a transaction arranged by Ms Radburn, and again you were acting as her agent. I simply do not believe you about this. It is obvious that you adjusted your evidence to meet the detail of objective facts as they were presented to you. I am satisfied that your evidence about these communications is false and represents an attempt by you to falsely shift the blame to Ms Radburn. I am satisfied that the stored communications evidence your purchase of drugs from Mustafa on several occasions, and that this was for the purpose of your conduct of a drug dealing business.

- (d) The stored communications contain a number of conversations between you and a variety of persons in respect of what appears to be the sale of methylamphetamine by you to them. I do not understand you to dispute that you were dealing with these persons for that purpose. You say that the sales are of excess methylamphetamine which had been purchased by Ms Radburn, and that you were selling it for her. Whether this is so or not, the conversations evidence arrangements for the sale of significant amounts of methylamphetamine and their tenor is consistent with each sale being part of an ongoing business.
- (e) There are also communications which suggest that you used others to transport drugs for you. A text message exchange between you and a woman with whom you were then in a relationship, Ms Bannister, directly relates to your attempt to have her transport drugs for you, in exchange for provision to her of a small amount for her own use. The conversation suggests that you have done this before with other people. The conversation is conducted at a time that, according to the boarding passes on your phone, coincides with a short trip by you and her to Melbourne. There is no evidence that Ms Radburn was involved in that journey. The clear inference is that you took Ms Bannister to Melbourne so that she could carry drugs purchased by you there on the return trip.
- (f) I accept the prosecution’s submissions concerning evidence of unexplained wealth, consistent with drug trafficking. During the relevant period, your only asserted income was Newstart allowance. However, your bank records demonstrate receipt and expenditure of amounts well in excess of these benefits. This includes transfers from your account to the account operated by Mustafa between 26 August 2019 and 14 October 2019. There were nine separate

payments over this period in an aggregate of \$9,050. Further, the communications extracted from your telephone show either screenshots or photographs of bank receipts, evidencing the deposit by you of significant sums of cash into Mustafa's account. Between 26 August 2019 and 2 October 2019, there are 12 separate such deposits in the aggregate sum of \$18,230. These amounts cannot be explained by social security benefits. In fact, you do not attempt to explain them in this way. In cross-examination, you conceded that your hands can be seen in photographs on your phone holding receipts of payments into Mustafa's account. You claim that you were simply making these payments to help Ms Radburn and on her instructions. Your explanation is that this money was given to you by Ms Radburn and was money which she had earned from the provision of sexual services to other men. I think this explanation is highly implausible. There is no evidence at all of her involvement either in communicating with Mustafa or with depositing the money. Further, deposits into your account are often followed by withdrawals or payments clearly for the purpose of personal consumption by you. I think that the evidence of unexplained wealth is a piece of circumstantial evidence which supports the inference that you are the one conducting this business.

- (g) You were arrested and charged with relevant offences on the day of the interception, and then released on bail. On 1 November 2019, police executed a search warrant at your home. They located another mobile phone, which contained further stored communications between you and another person relating to the sale of methylamphetamine.
- (h) You claim that you met Ms Radburn in early 2019. If you did, then this would be consistent with your claim that the communications and travel was on her behalf. However, in her interview with police on 17 October 2019, Ms Radburn said that she first met you no more than two months earlier. Although I exercise considerable caution in placing weight on that interview, given that statements which minimise her involvement are essentially self-serving and cannot now be tested by cross-examination, her claim about the commencement of the relationship accords with the objective evidence. In particular, the boarding passes stored on your mobile phone show trips to Melbourne of short duration undertaken by you as early as 15 May 2019. There are boarding passes relating to similar trips by a number of other people. I infer from the fact that the boarding passes are stored in your phone, that you had arranged and paid for these airfares. However, the first mention of Ms Radburn in respect of a trip to Melbourne is on 30 August 2019, which is entirely consistent with what she told police about when she first met you. If your claim that she was operating this business was true, then it would be expected that there would be some evidence of her travelling to Melbourne with you earlier than 30 August. Indeed, one would expect evidence that she was doing so throughout the whole of the period of the indictment. The absence of such evidence is consistent with her version as to when you first met and inconsistent with yours. It directly contradicts your claim that she operated this business and you had little to do with it.

In my view, the combined effect of all of this evidence leads to a strong inference that you were personally conducting this drug trafficking business over the period particularised in the indictment. I reject your evidence that it was Ms Radburn's drug trafficking business and your

only involvement was to provide assistance to her. I accept the possibility that Ms Radburn had more knowledge of, and was more involved in, your drug trafficking activities than she was prepared to concede to police in her interview. I accept that you were both consuming significant amounts of methylamphetamine at the time and there is no reason why you would have hidden from her your purchase of and dealing in this substance, particularly when you both travelled to Melbourne on occasions when you would purchase the drugs. In fact, the history of your travel over the entire period, including before you met Ms Radburn demonstrates that you regularly had an associate with you, and your conversation with Ms Bannister supports the conclusion that you were using travelling companions to transport the drugs back to Tasmania on a consistent basis. This would explain why drugs were found in Ms Radburn's make-up bag on 17 October. In your evidence, you said that you assumed that she would have secreted the drugs within her body. It is clear that you became alarmed when intercepted by police and immediately claimed to police that your bag, which you knew contained her make-up bag, which was owned by her, and you told police that the larger bag was owned by her and you were carrying it for her, and that she had put things in it. It is obvious from this that you were well aware that drugs were in the bag and you were attempting to deflect blame on to Ms Radburn. I have no doubt that you knew she was carrying drugs in the make-up bag, because you were utilising her to carry drugs for you, so that you could deflect blame if necessary. This came unstuck when she realised she would be overweight with her luggage and put the make-up bag into your bag at the last minute. This explains your reaction when confronted by police at the airport. In any event, any peripheral involvement by her in the business does not reduce your culpability at all. In fact, I regard your use of these women to carry drugs for you as an aggravating factor. Ultimately, the only rational inference available on all of the evidence is that you were the one conducting this trafficking business and you did so throughout the entire period on the indictment. I intend to proceed to sentence on that basis.

There are a number of aspects of this crime which make this a serious case of drug trafficking. Firstly, the trafficking related to methylamphetamine, which is well known as a highly addictive and harmful drug. Secondly, the trafficking involved importing significant amounts of that drug into this State and then distributing it throughout the Tasmanian community. Although I accept that you were a heavy user of methylamphetamine yourself at the time, and were consuming some of the drugs purchased by you, it is clear also that the importation of drugs was on a sustained and commercial basis. As I commented in the case of *DPP v Kobelke* [2020] TASCCA 10, importation of drugs into Tasmania on a commercial basis is a particularly serious aspect of the crime of drug trafficking. The scale and commercial reality of the enterprise can be inferred from examples of the amounts involved in respect of specific transactions. Some examples of these are as follows:

- (i) The envelope intercepted by police on 10 April 2019 contained 37.6 g of methylamphetamine. The amount seized on 17 October 2019 was 53.4 g. The aggregate quantity, 91 grams, is estimated to have a resale value of between \$19,378 and \$91,400 depending on the manner of sale.
- (j) The aggregate sum paid to Mustafa by way of bank transfers and cash deposits between July and October amounted to \$27,280. The prosecution asserted without dispute that this would be sufficient to purchase 231.989 g of methylamphetamine. This amount would have a resale value of between \$115,945 and \$231,890.

- (k) In a conversation with Mustafa on 27 August 2019, you enquired as to the quantity of drugs which could be purchased for \$10,000. In a subsequent conversation, you discussed the purchase of 6 ounces of methylamphetamine for \$20,000.
- (l) In conversations with customers, there is frequent reference to the sale of varying quantities of methylamphetamine ranging from .5 g to significantly larger quantities, including several grams. The larger quantities would permit resale by the purchaser in small quantities to others.

On the other hand, there is no evidence that your profit from drug trafficking was sufficient to enable you to acquire significant assets. I infer that the commercial reality of the trafficking was at a level which permitted you to sustain your own drug habit, and supplement your funds sufficiently to permit expenditure on discretionary items such as trips with your family to the Gold Coast, takeaway food, and the services of sex workers. The cash flow also enabled you to sustain the business itself, which involved significant expenditure, not just on the purchase of drugs but also to cover airfares and accommodation for both you and accompanying persons on your journeys to the mainland to purchase drugs.

You are now 52 years of age. You have a long criminal history, much of which is related to offences involving illicit drugs. It is clear from the nature of these offences and from comments made by judges when sentencing you in the past that your offending has been coincident with a lifelong drug problem. Your criminal history demonstrates a pattern of funding your drug habit by selling drugs to others, which of course was the behaviour manifested by your commission of this crime. Some of your past drug offending is as follows. In 1996, you were convicted of importing a narcotic substance. In 2001, a wholly suspended sentence was imposed for offences which included selling a restricted substance. In 2005, you were sentenced by a judge to 12 months imprisonment for possessing items intended to be used to manufacture methylamphetamine. In 2008, you were sentenced to a further period of imprisonment for trafficking in methylamphetamine. In 2012, you were convicted of driving offences, which included driving a motor vehicle while an illicit drug was present in your body. There have been no further convictions since 2012.

Your counsel asserts, and you confirmed in evidence, that since being charged with this crime you have worked hard to get on top of your drug problem. You claim to have made efforts to reform generally. I must accept that this is the case, although it is also clear that although you may have stopped offending for a period after 2012, you perpetrated this serious example of drug trafficking in what appears to be a relatively unconstrained way notwithstanding having been previously dealt with by the courts as described. Your propensity to commit drug crimes is also demonstrated by the fact that you were not deterred from continuing to traffic in drugs by the airport interception and subsequent arrest on 17 October 2019. You committed these crimes as a mature man with this history of interaction with the criminal justice system, and despite the consequences that would follow if you were caught. Personal deterrence is a relevant sentencing consideration in this case. Your rehabilitation is important but, quite frankly, it is something that is in your own hands, and you should be motivated to achieve that rehabilitation for your own sake and the sake of your family. This should be the case irrespective of the punishment imposed on you by me. In my view, having regard to your age and criminal history, the significance of rehabilitation to sentencing in this case is limited.

There is little else available to you in mitigation. As I have already said, I accept that one of your reasons for trafficking was to support your drug habit, but I think that this has little mitigatory value given your age and prior history. You are entitled to some consideration for the utilitarian value of the plea of guilty, although this value has been significantly reduced both by the fact that it was a late plea and by your unsuccessful contest of the facts. I detect no evidence of true remorse. Any suggestion that your plea provided evidence of remorse is negated by the fact that you went into the witness box and, in my view, gave largely false evidence in an attempt to shift the blame onto the deceased woman. This seems to me to be a continuation of your propensity to deflect blame onto others. There is no suggestion of any significant cooperation with the authorities or anything else that would mitigate your culpability for this crime has occurred.

The primary sentencing considerations are denunciation of your conduct and general deterrence. Drug trafficking of this nature causes enormous harm in the Tasmanian community, and must not be tolerated. The only appropriate sentence is a significant term of imprisonment.

Todd Jackson, you are convicted of the crimes to which you have pleaded guilty and sentenced to imprisonment for a term of five years. That sentence will commence from the day you were remanded in custody, which is 1 February 2023. I order that you not be eligible for parole until you have served three years of that sentence. I make the forfeiture orders sought by the prosecution.