

Stephen Williams, on 20 September 2022 you were found guilty by a jury of one count of trafficking in a controlled substance. I was asked to delay sentence so that you could also be sentenced for other crimes. On 17 March 2023 you pleaded guilty to one count of receiving stolen property and one count of dealing with property suspected of being proceeds of crime. Those crimes were committed between June and September 2021, about two years after your arrest for trafficking. I will address the circumstances of those later crimes later in these remarks.

It follows from the verdict on the trafficking charge, as the prosecution case was conducted and as the jury was directed, that a majority of the jury was satisfied beyond reasonable doubt that for either the whole or a part of the period between July 2017 and November 2019 you conducted a business of a commercial and systematic kind involving the continuous sale and distribution of controlled drugs. Your co-accused, Russell Haworth, was charged on the same basis but acquitted.

The case against you was a circumstantial one. It also follows therefor that the jury concluded that the only explanation reasonably open on all the evidence it accepted, considered and weighed as a whole, was that you were conducting the type of trafficking business I have described. I think that the jury must have drawn most, if not all, of the inferences which it was asked to draw by the prosecution from the evidence presented at trial. However, subject to consistency with the verdict, it is for me to find facts for sentence. Facts which are adverse to you must be proved beyond reasonable doubt. Facts in your favour must be proved on the balance of probabilities.

The general background is that in about late 2016 you met Russell Haworth through your mutual connection to the industrial premises at Killafaddy in the outer eastern part of Launceston. Many of the buildings on that site were disused and dilapidated, but some were in continuing use. Mr Haworth was working with one of the tenants, Heath Lethborg, who had permitted him use of a shed to work on cars and spend time. With another man you conducted a motor cycle business in a separate building.

Late in the evening of 1 July 2017 the police searched Room 9 at the Kings Meadows Hotel. Inside that room they found a backpack and a toiletries bag both containing drugs. The drugs inside the backpack were in snap lock bags in a plastic case secured with a padlock. There were ten bags of MDMA capsules, about 50 in each bag. Three bags contained a total of about 75 grams of MDMA in either powder or semi solid form, three contained a total of about 109 grams of heroin solid or powder and another three contained a total of about 34 grams of methylamphetamine powder or solid. These were commercial quantities of each drug.

I am satisfied that the drugs were yours. The police obtained CCTV of the hotel. In the early afternoon the room was rented to Brett Beeton. Mr Beeton left the hotel with the key without going to the room. His evidence was that he intended to use the room for another purpose but then lost the key. I reject his evidence as an obvious lie. About half an hour later Mr Haworth arrived with the key and the backpack and the toiletries bag. He used the key to enter the room and left the backpack and bag inside, leaving a few minutes later. Another half an hour later a third man arrived at the hotel and headed towards that room. I am satisfied that the man was you. No witness identified the man as you from the CCTV but the conclusion can be

drawn from the combined force of other evidence. Mr Haworth said that it looked like you, and I agree. From my observations of you in person and in other images there is a strong resemblance in terms of physical appearance and manner of movement even though your face is obscured by a hat. I warn myself, as I warned the jury, of the risk of misidentification. You could not have been identified from the CCTV alone. But the resemblance between the appearance of that man and you is only one factor in my conclusion. Mr Beeton was a person you knew. You had an association with Mr Haworth. Then, just before 7 pm, you were the front seat passenger in a car intercepted by police on Hoblers Bridge Road near Killafaddy. The hotel room key was found in the front passenger footwell. In the same footwell was another set of keys which included a key which later opened the padlock securing the plastic case in the backpack. That case was identical to a case seen at your home by the police a few days earlier, also secured by a padlock for which you had the keys. Both the hotel key and the other set of keys found in the car were under your jacket. I accept the evidence of Constable Slater that, after the car was pulled over, you tried to persuade him to leave the car alone in return for other information. I also accept that you told him, at the scene and in a later interview, that nothing in the car was yours except your jacket and phone. The police also found, in that car, a .22 revolver hidden under the driver seat. The driver, Stuart Burgoine, told the police that the gun was yours and that you had put it there when it became apparent that the car was going to be stopped. He said that you offered him a substantial amount of money to take responsibility for it. At trial you maintained that the gun was his. There was nothing to link you to that gun other than your presence in the car and the statements of Mr Burgoine. Again, warning myself of the risk that he was lying to deflect blame from himself, my impression of him was that he was telling the truth. However I would have reached the same conclusion about the drugs at the hotel regardless of the evidence about the firearm. It was relied on only as evidence of an accoutrement of trafficking. It is possible that you said what you did to the police because of the gun, but I find that what you said was, at least in part, an attempt to disassociate yourself from the keys because you knew that they may link you to the drugs at the hotel. I do not believe your account that you were in possession of those keys because Mr Haworth had asked you to run an errand for him.

A few days later, on 5 July 2017, the police searched the home in Riseley Street Kings Meadows which you shared with your partner Carly Dekkers. In an overhead cupboard in the kitchen the police found \$13,200 in cash. The evidence of Ms Dekkers and her mother Trudi Dekkers, was that the money belonged to Trudi Dekkers, who, despite being bankrupt and in employment with very modest income, had managed to secretly accumulate it through gambling on keno. Carly Dekkers said the money was obtained to offer as surety for your bail. That may well be true, but I reject the evidence that the source of the money was either Trudi or Carly Dekkers because neither had the means to come up with it. Trudi Dekkers' account is so implausible that it may safely be rejected. You were in custody at the time, but I find that the source of the cash was you.

Almost a year later, on 12 July 2018, the premises at Killafaddy were searched by the police. In one of the large disused and dilapidated buildings they found three significant quantities of drugs. In a toilet area was a PVC tube containing two snap lock bags. One contained 32.1 grams of heroin powder. The other contained 20.9 grams of heroin solid. Inside the industrial part of the building, on the lower floor, a plastic VHS case was found secreted in a hollow steel beam. Inside the plastic case was another case containing scales, empty snap lock bags and three snap lock bags respectively containing 3.0 grams and 6.8 grams of methylamphetamine, and 0.8 grams of methylamphetamine and cocaine. On an upper floor, concealed in a hole in the wall, was a plastic clip lock container and an otherwise empty

Sidchrome socket set metal case. In the metal case there were two snap lock bags respectively containing 14.0 grams and 5.4 grams of methylamphetamine. Inside the plastic case there were about 800 capsules, in 16 snap lock bags holding about 50 in each. All of the capsules were of similar appearance. Only some were analysed, but all of those analysed were MDA, closely related to MDMA and also called ecstasy. I find that all of the capsules were either MDA or MDMA.

The building in which the drugs were found was separate to but adjoining the area used by Mr Haworth and others. The jury was alert to the possibility that the building was not secure and easily accessible, and that any one or more of many unidentified people could have placed those drugs where they were found. There was no forensic link between you and those drugs. The DNA samples showed DNA profiles from other contributors, but no reliable conclusions could be drawn from those other profiles. However DNA strongly matching Mr Haworth's DNA was found on one of the plastic bags inside the VHS case, on the inner surfaces of the plastic container and the inner and outer surfaces of the metal case. You were linked by your association with Mr Haworth and the location. When all of the evidence is considered I am satisfied that the drugs found were part of your trafficking business.

The next relevant circumstance occurred on 3 July 2019. Just after 3 pm on that day a Mitsubishi Triton was pulled over in Abbott Street in Newstead by a motor cycle policeman. It was not far from, and heading towards, the home in which you were then living in Mackellar Road. Having been pulled over, the driver then accelerated away. The police officer quickly followed and found the car parked a few doors down from your home. By then the driver had absconded but I am satisfied, as I think the jury must have been, that the driver was you. You were seen by a police officer, Sgt Adams, only five minutes earlier, driving that vehicle away from the business in York Street in which you were then involved. Sgt Adams was part of a surveillance operation targeting you at the time. Another officer, Constable Wilson, was part of the same surveillance team. Constable Wilson said that he saw your vehicle approaching along Abbott Street and recognised you as the driver. Again I warn myself of the risk of misidentification. Sgt Adams was sitting in another vehicle and made his observations from about 15 metres away. At the commencement of the surveillance operation he only had a photograph of you but he had observed you on previous occasions. It is possible that Sgt Adams may have assumed it was you from the vehicle and the location but I think that unlikely. The identification made by Constable Wilson may have been affected by the fact that he had been told in advance that you were travelling along Abbott Street towards him in that vehicle. But his evidence adds to the case that you were the driver. The evidence is added to by other circumstances. When the car was found there was a bum bag inside which you admit was yours. It contained \$8,300 in cash. There was also a plastic clip lock container containing jewellery. Samuel Sargison gave evidence that he was the driver and that the cash in the bum bag was his. He said that he was taking the car for a test drive having agreed to buy it. I reject his evidence and the evidence you gave which was consistent with it. He gave an account of how he came to be in possession of the jewellery which was utterly implausible and which does not account for how DNA strongly matching yours was found inside that container. I also regard his story of how the cash came to be inside your bum bag as equally implausible. He could not remember what type of car it was, did not give any plausible explanation of why he absconded, drove towards and abandoned the vehicle and the money near your house, or why he presented himself to the police a few days later and admitted he was the driver. The significance of this evidence is that it is another occasion in which you were in possession of a substantial amount of cash.

The next category of evidence concerned the search of Lloyds Hotel on 13 November 2019. In that search two quantities of drugs of significance were found. On a shelf behind the bar was a bag of savoury snacks. It was not a chip packet but for simplicity it was referred to at trial as a chip packet. It was with other similar bags but it was larger than the usual size. The bag did not have its original seal but had been resealed in some way not revealed by the evidence. I infer it was resealed with the type of device which would seal a vacuum pack bag. When that bag was opened it contained a brown paper bag. Inside that bag was a vacuum pack bag. Inside that bag, in turn, was a snap lock bag containing 87 grams of crystalline methylamphetamine, Ice. The other quantity of drugs was found upstairs, in a room being used as an office and living room. The drugs were inside a headphone case. Inside that case was a snap lock bag containing 13.9 grams of Ice. Another 2.5 grams of Ice was wrapped inside a piece of paper from a writing pad. I am satisfied, again as I think the jury must have been, that all of the drugs were yours. That inference is to be drawn from a combination of the following facts.

From the beginning of 2019 you became involved in a licensed premises in York Street intending to operate it as a night club. You gave evidence that you borrowed \$40,000 from your father, which he paid you in cash, to buy the business and operate it with Trudy Dekkers. As events unfolded, you said, you paid only \$20,000. Difficulties with licensing led to you to take steps to move to Lloyds Hotel. You offered the owner of the hotel building \$10,000 in cash, in a bag, as payment for rental arrears accumulated by the existing tenant and licensee, James Napier, as an incentive to lease the hotel to you. When it became apparent that you could not be lessee because you could not get a licence, you persuaded Braedee How to sign a lease and for Mr Napier to continue as licensee. By late October 2019 you had fallen out with Mr How and he had left the scene. He told the jury that, while he was there, you were supplying him with methylamphetamine. By 13 November the hotel was opening three days a week as a night club with staff, including Jordyn Fenton who was managing the bar. She was in a close relationship with you. Mr Haworth was there undertaking renovations and doing security work. I am satisfied that you were in charge. Even on your own evidence Mr How, when he was there, and Mr Napier, and everyone else but you were being paid wages. Ms Fenton paid bills but using your money and the profits were yours.

The upstairs room in which the headphone case was found was being used by you as an office. Many of your personal belongings were there along with unused snap lock bags and digital scales. The case containing drugs was found on a bed in amongst clothes which I am satisfied were yours. The piece of paper had your handwriting on it and a swab revealed the presence of DNA strongly matching yours. The inference that the drugs in the chip bag were also yours may be contributed to by the evidence that the methylamphetamine had the same chemical composition as the drugs in the headphone case found upstairs, your general authority over what was going on at the hotel, and the unlikelihood that anyone else could have put a bag, sealed in that way, in that location. I accept that there are other possible explanations for the presence of the drugs in that bag, but the evidence is not to be considered in isolation.

After the hotel was searched the police went to Ms Fenton's home. They found a backpack containing three purses containing cash, as well as a substantial wad of cash in a bedroom drawer. In all there was almost \$126,000. She gave evidence that the money was yours and included the cash proceeds from the hotel which you asked her to take home with her each day. You gave evidence that the money was the accumulation of money you had saved from the motor cycle business, the unspent cash loaned to you by your father, the proceeds of the

previous business and from trading at Lloyds, which you said was very profitable. I reject your evidence. I found it to be evasive and implausible. One example is your evidence that the \$40,000 which your father loaned you to buy a business was paid in cash. I regard it as inherently unlikely that even a close relative would pay a legitimate business loan in cash. Despite what I regarded as overwhelming evidence that you were the driving force behind the business, and entitled to the proceeds, you pointedly avoided giving direct answers to questions on that subject. Your explanation for not putting money in the bank is completely unconvincing and is not adequately explained by wishing to hide cash from the tax office. None of your explanations satisfactorily explain such a large amount of cash. Nor have the cash deposits being made by Carly Dekkers into her bank accounts over a number of years been satisfactorily explained. Her explanation that she obtained substantial amounts of money from her mother and grandmother by lying to them about her uncontrolled spending on cosmetics, clothes and handbags, and then obtaining cash by selling those items on line is utterly unconvincing.

You are thus to be sentenced on the basis that, having regard to the combined force of all the evidence that the jury accepted, it was satisfied that you were conducting a drug trafficking business. I reach the same conclusion. It is impossible to make precise findings about the nature and scale of the trafficking, but it may be assessed by reference to the quantities of drugs with which you were associated and the various amounts of cash which were yours. Evidence was given at trial about the value of heroin, Ice, MDMA and MDA if sold to end users. The sale price varies according to the quantities sold, but both Ice and heroin were worth up to \$100 per 0.1 grams, called a point. MDMA and MDA capsules were worth up to \$50 per capsule. That evidence was undisputed although the return from sale of the drugs may have been much less, if sold for lesser prices or in greater quantities. However the maximum potential value of the drugs found at the Kings Meadows Hotel, even without the 75 grams of MDMA in powder or other substance form, exceeded \$190,000. The maximum potential return from the 800 MDA or MDMA capsules found at Killafaddy was \$80,000, for the heroin \$53,000 and the Ice \$29,000. The maximum potential return from the Ice found at Lloyds Hotel, even excluding the amount wrapped in the paper, was about \$100,000. To those findings is to be added the ready access you had to significant amounts of cash including the very large amount found at Ms Fenton's home. I conclude that it was an ongoing trafficking business of a substantial nature involving, during the period of almost two and a half years specified in the indictment, the regular acquisition and distribution of drugs of various kinds, mostly Ice, heroin and ecstasy. I am satisfied that you were the principal and driving force behind the business. Your related activities, even if, like the Lloyds Hotel business, they also served some other commercial purpose, were principally a front for the trafficking and a means of facilitating it. You claimed to be a user of illicit substances but I find that this was a trafficking enterprise motivated purely by profit. The nature and scale of the enterprise distinguishes it from a case in which an offender may fall into trafficking wholly or partly to fund his or her addiction.

I was informed at the sentencing hearing that you were the subject of surveillance throughout 2019 but only limited evidence of trafficking was obtained. However I am not satisfied that I should sentence you on the basis that the only activity you engaged in was that discovered by the police. The evidence which was obtained demonstrate careful attempts to conceal your activities. You are not to be punished for uncharged or unidentified conduct, but I am quite unprepared to accept that the occasions identified were isolated or out of character or present a full picture.

I next address the receiving and proceeds of crime charges. Your home in Waverley was searched on 15 September 2021. During the search the police found video evidence of you being in possession of coins, coins sets, notes and documents which were stolen during a burglary of a home in George Town on 16 June 2021. The video images show you, in company with others, in possession of those items soon after the burglary. After 18 June 2021 the location of the items is unknown. You admit knowing they were stolen. The items were worth about \$16,000 but formed only part of the things stolen in the burglary. When the police went to your home to arrest you on 30 September 2021 you attempted to run off. You were apprehended with a bag containing methylamphetamine which is not the subject of any charge I am now dealing with. However the bag also contained \$6737.50 in cash. Your plea is on the basis that the cash is the proceeds of drug sales. That criminal conduct was well after the period to which the trafficking charge relates.

You are now aged 41. As a young person you were the subject of a crime which had a significant impact on you. You fell out of education and began to abuse illicit substances. Your early record of dishonesty is linked to that addiction. You have four children ranging in age from 19 to 2. Your imprisonment will impact on them but that is part of the price to be paid for serious crime and is not mitigating. Your criminal record has limited your ability to obtain employment. You say that you intend on your release to remove yourself from criminal activity but you have so far done nothing to demonstrate that your expression of intent is a genuine one. Some mitigation arises from your plea of guilty to the 2021 charges but not otherwise. There is no indication of remorse. To the contrary, from your release on bail following your first arrest on 2 July 2017 your offending continued whenever you were not in custody right through until the end of the trafficking period in November 2019 but even in September 2021 you had cash which was the proceeds of drug sales. That you offended while on bail is an aggravating factor. You have spent significant periods in custody to such an extent that your counsel described you as having been institutionalised. You claim to experience some anxiety in prison because, in 2015, while you were in custody, a person close to you was attacked in retribution for something you had done. There is no evidence however to support a contention that you suffer from any condition or deficit which is relevant to sentence. You have a long record of prior convictions commencing when you were a young man. In some part your record is for offences involving dishonesty and firearms but it includes serious drug offending. In 2007 you were given a good behaviour bond for summary drug offences including selling. In 2008 you were imprisoned for 10 months for trafficking. In Victoria in 2013 you were sentenced to imprisonment for 12 months wholly suspended for trafficking in a drug of dependence. You served terms of imprisonment in Tasmania in each year from 2013 to 2016. You served further substantial terms pursuant to sentences imposed in January and November 2021 and March 2022 for driving and drug possession offences. For the most part those sentences are not prior convictions in relation to the trafficking charge and are relevant to totality. However this is the third time you have been sentenced for trafficking and it is a crime involving serious and separate criminality. You are not to be punished again for your earlier trafficking crimes, but your repeated offending demonstrates a high level of moral culpability, a persistent disregard for the law and real need to protect the public from a continuing propensity to traffic in drugs. In my view, given the various amounts of drugs and cash, the prolonged period and repeated nature of the offending and your high degree of moral culpability, this is a serious case of trafficking. It has frequently been said in this court that persons who traffic in illicit drugs should expect harsh punishment. Those who may be inclined to engage in the sale of illicit drugs for profit must balance the chance of high returns with knowledge that apprehension and conviction will result in severe sentences. For that reason, punishment and general deterrence are the predominant sentencing factors. Moreover,

your record suggests a reduced chance of rehabilitation, and an increased need to deter you and protect the public. I will allow for parole but not until you have served a term sufficient to address the sentencing aims I have referred to. The 2021 offending requires an additional term but I will moderate the sentence by ordering that most of it be served concurrently.

There has been some delay but delay per se is not mitigating and there is nothing to make it so in this case. Between 2017 and today you have spent 341 days in custody which have not been taken into account in other sentences. I will now take that period into account and backdate the commencement of your sentence accordingly.

Stephen Williams, on the trafficking indictment you are convicted and sentenced to imprisonment for six years from 14 May 2022. I order that you not be eligible for parole until you have served three years and nine months of that term. On indictments 1 and 2 of 2023, the receiving and proceeds of crime charges, you are convicted. I impose one sentence. You are sentenced to a term of imprisonment of 12 months. I order that nine months of that term be served concurrently with the term just imposed and that the balance be served cumulatively. I order that you not be eligible for parole in respect to that sentence. I specify that the effect of the sentences just imposed is a total term of six years and three months from 14 May 2022 with eligibility for parole after having served four years of the total term.