

STATE OF TASMANIA v ADAM SIMPSON
COMMENTS ON PASSING SENTENCE

9 JUNE 2023
ESTCOURT J

The defendant, Adam Simpson, who was aged between 41 and 45 at the time of the offending, has pleaded guilty to one count of cultivating a controlled plant for sale, contrary to s 7(1) of the *Misuse of Drugs Act 2001*.

The defendant and Theresa Craig jointly own a property at 16 Jacobsons Road, Judbury. The defendant lived at 226 Golden Valley Road, Cygnet. The defendant and Ms Craig purchased the property at Jacobsons Road in November 2016. Ms Craig moved into the property and approximately six months later commenced cultivating cannabis.

On 1 December 2020, members of Tasmania Police executed a drug related search warrant at 16 Jacobsons Road. During the search police located and seized from inside the house, amongst other things, two snap lock bags containing a quantity of cannabis bud (one containing 17.43 grams and the other 3.2 grams) and a small quantity of chopped cannabis, (3.12 grams).

There was an outbuilding shed on the property which contained two separate hydroponic cannabis grow rooms. During the search police located and seized 20 cannabis seedlings and 19 cannabis plants.

An examination of Ms Craig's mobile phone revealed extensive text messages between the defendant and Ms Craig, which included Ms Craig asking the defendant for advice on tending the cannabis plants and the defendant providing that advice.

After the examination of Ms Craig's mobile phone police obtained a warrant for the defendant's address at 226 Golden Valley Road. During the search of those premises there was seized a total of 58 cannabis plants and 803.29 grams of harvested and packaged cannabis bud.

Ms Craig participated in a video recorded interview in which she admitted that she had been cultivating cannabis. She said the defendant paid half the electricity costs and taught her how to grown cannabis hydroponically. Since around March 2020 the defendant had been paying her around \$1,000 per month in exchange for cannabis. Prior to March 2020 her previous cannabis grows would generate about \$1,500 per month. She harvested the cannabis and put it into a large white Styrofoam box which she provided to the defendant. He gave her money.

After the interview, Ms Craig was charged with trafficking in a controlled substance and using a controlled plant product, and was bailed to appear in court. An indictment was later filed for cultivating a controlled plant for sale, to which she pleaded guilty.

Following the search at the defendant's residence, he participated in a video recorded interview in which he stated that he smoked about 1 – 2 ounces of cannabis per week.

The State assert the defendant was cultivating cannabis for sale at Golden Valley Road, and was a party to the cultivation of cannabis at Jacobsons Road.

The estimated total value of the seized 808.29 grams of packaged cannabis bud is \$8,500.45 if sold by the ounce. If the cannabis was sold in smaller amounts, then the value would be a lot

higher. On average the expected yield from a mature cannabis plant is between four ounces (113 grams) and six ounces (170 grams).

Based on the 58 plants located at Golden Valley Road, the potential yield is between 232 ounces (6,577 grams) and 348 ounces (or 9,865 grams). If sold in ounces this has a potential street value of between \$69,600 (or 232 ounces at \$300 per ounce) or \$104,400 (348 ounces at \$300).

Based on the 39 plants located at Jacobsons Road, the potential yield was between 156 ounces (or 4,422 grams) and 234 ounces (or 6,633 grams). If sold in ounces this had a potential street value of between \$46,800 (156 ounces at \$300) or \$70,200 (234 ounces at \$300). Between around May 2017 and March 2020 the defendant paid Ms Craig approximately \$1,500 per month (that is over 33 months), and between March 2020 and December 2020 paid her around \$1,000 in exchange for the cannabis she was growing. It is asserted that over the indictment period of 42 months the defendant paid Ms Craig approximately \$58,500.

The State seeks an order for the forfeiture of the following items on Property Seizure Record dated 1 December 2020, namely:

- (a) the packaging for items 1, 2, 3, 14 and 15; and
- (b) items 5, 6, 7, 8, 9, 12 and 13.

I make that order.

The defendant has no relevant prior convictions. He is now 47 years old. His parents separated and he lost contact with his father as a nine year old. He left school early but he has a good industrial record. He was a baker from aged 15 to 30 and later a self-employed builder. He sold his first house in Melbourne and moved to Tasmania with his then partner and daughter.

When they separated in 2009 and his wife moved back to Victoria, leaving him alone, I am told he was devastated. He struggled with alcohol abuse and started to use cannabis in turn to curb his alcohol use.

The defendant now resides in Cygnet in a property that he owns. He has been in a new relationship for about eight years, although that relationship is currently under some strain as a result of bad luck and ill health.

The defendant was involved in a serious motor vehicle accident in Melbourne in 2021. He sustained multiple fractures to cervical vertebrae and severe compression of lumbar discs. His partner had a stroke in June 2021 at the age of 52, and also underwent heart surgery and other surgery. Her eldest son has mental health issues and the defendant provides support and assistance

The defendant has taken steps to reduce his consumption. He has engaged with a psychologist.

Ms Craig had been a long term friend of the defendant's. She lost over \$260,000 in a romance scam and the defendant assisted her then with acquiring accommodation and assisted her with growing, as well as purchasing, cannabis from her. His relationship with her has now ended.

Ms Craig pleaded guilty to trafficking as well as cultivating a controlled plant for sale. I sentenced her to a six months' home detention order. The defendant has been deemed unsuitable for home detention.

As to parity, the crimes to which the defendant and Ms Craig pleaded guilty are different in law and the defendant is not to be sentenced for trafficking. In terms of the scope of their actual conduct though, there is little factually to distinguish between them.

Cultivating a controlled plant for sale contrary to s 7(1) of the *Misuse of Drugs Act* is a serious crime. Cannabis is no longer regarded as a soft drug. It is now accepted that it is a drug with a range of potentially dangerous and harmful consequences for its users, particularly young persons. General deterrence remains a significant sentencing consideration.

The defendant is convicted and is sentenced to 12 months' imprisonment, which sentence I wholly suspend on condition that he commit no offence punishable by imprisonment for a period of two years.

I also make a community correction order with an operational period of 12 months and in addition to the core conditions of that order, I impose special conditions that the defendant must, during the operational period of the order, submit to the supervision of a probation officer as required by the probation officer and if directed by a probation officer, must attend, participate in, and complete the EQUIPS Addiction Program as directed.

The defendant is directed to attend the office of Community Corrections at 75 Liverpool Street, Hobart. You are to go to the office of Community Corrections prior to 4.00 pm on Tuesday, 13 June 2023 to tell them a supervision order has been made in respect of you, as they recommended in the pre-sentence report.