

STATE OF TASMANIA v JAE McDERMOTT
COMMENTS ON PASSING SENTENCE

7 JULY 2023
ESTCOURT J

The defendant, Jae Mc Dermott, aged 29 at the time of the offence, has pleaded guilty to one count of trafficking in a controlled substance, namely cannabis.

At the time of the offence, the defendant resided at an address in Rokeby with his partner. On 24 December 2020, members of Tasmania Police attended the Rokeby address in possession of a search warrant in relation to illicit drugs and the defendant and his partner were present at the address. The defendant accompanied police to the front bedroom of the house, which had been turned into a grow room with two grow tents set up. A total of eight cannabis plants and 1.28kg of cannabis bud was seized. If the cannabis bud was sold at a rate of \$300 per ounce, its potential value was \$8,100. Based on the defendant's admissions to police when subsequently interviewed, the plants seized would have yielded approximately 84g of cannabis bud each. If the cannabis harvested from these plants was sold, the potential value was \$35,100. The search was captured on a police body worn camera. The defendant was captured stating *"I grow myself mainly so I don't have to deal with drug dealers."*

The Crown makes application pursuant to s 38 of the *Misuse of Drugs Act* 2001 for an order that the items listed at paragraph 16 of the Crown Statement of Facts, and subject to Property Seizure Record Receipt 200101, be forfeited to the State and I make that order.

The defendant has no relevant prior convictions.

The defendant has been in full time employment since he left school and went from labouring positions with numerous employees to gaining his boiler maker welder qualification. He is now fully qualified after completing his apprenticeship and has been employed by his father for the last four years.

He commenced using cannabis at age 12. More recently a combination of the pressure of meeting the costs of living and other difficulties caused him to take the opportunity to profit from his growing of cannabis, changing the nature of his original intention to grow cannabis to avoid the sourcing of drug supply from dealers, to trafficking.

Enough has been said in recent years by judges of this Court for everyone to understand that cannabis is not considered a "soft" drug. It has significant and deleterious consequences for users, particularly young people and trafficking in the substance is a serious crime. Having said that, this case may be considered as toward the lower end of the scale of seriousness.

The defendant is convicted and sentenced to six months' home detention.

The order will contain all of the statutory core conditions contained in s42AD(1) of Part 5A of the *Sentencing Act* 1997 and pursuant to s42AD(1)(g) and (h), the following conditions will be added to the Order:

- You must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device.
- During the period that you are required to submit to electronic monitoring:

- (a) you must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
- (b) you must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
- (c) you must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, including in relation to the installation, attachment or operation of a device, or a system, used for the purposes of electronic monitoring by:
 - (i) a police officer;
 - (ii) a probation officer or proscribed officer; or
 - (iii) another person whose functions involve the installation or operation of a device, or a system, used for the purposes of electronic monitoring.
- In addition, you must, during the operational period of the order, remain at [**address provided**] at all times unless approved by a probation officer.
- You must attend the Community Corrections office at Hobart for induction onto this order immediately after leaving Court this afternoon.
- You must, during the operational period of the order, maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times.
- You must submit to the supervision of a Community Corrections officer as required by that officer.
- You must not, during the operational period of the order, take any illicit or prohibited substances. Illicit and prohibited substances include:
 - (a) any controlled drug as defined by the *Misuse of Drugs Act 2001*; and
 - (b) any medication containing an Opiate, Benzodiazepine, Bupropion, Hydrochloride or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication.
- You must not, during the operational period of the order, consume alcohol, and you must, if directed to do so by a police officer or Community Corrections officer, submit to a breath test, urine test, or other test, for the presence of alcohol.

It will also be a special condition of the order that during the operational period of the order you attend this Court on 7 September and 7 November 2023 at 4.00pm for the purpose of monitoring your progress with your mental health and wellbeing.

Finally, I make a community correction order for a period of 12 months from today and in addition to the statutory core conditions set out in s 42AO of the *Sentencing Act* I impose a

special condition that you submit to the supervision of a probation officer as required by a probation officer, and a special condition that during the operational period of the order, you submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.