

Javed Dixon, you plead guilty to trafficking in cocaine. Not long before midnight on 12 May 2022 a car you were driving was pulled over by the police near Longford. You had one passenger, Ryan Penton. You had been drinking alcohol and an oral fluid test disclosed that you had also used cocaine. Mr Penton had a small snap lock bag in his wallet which contained 1.08 grams of cocaine. In the centre console were five bags of cocaine. Three of the bags contained about an ounce, one bag contained half an ounce and the other bag contained 1.2 grams. In all there was a total of 97.3 grams. Sold in 1.0 gram deals the cocaine had a potential value which might have approached \$50,000. Sold in larger amount the value was still between \$21,000 and \$27,000.

You were interviewed. You admitted using cocaine but, at that time, you did not admit that you had the drug for another purpose. Your plea of guilty to trafficking is accepted by the State on the basis that you did not sell or intend to sell the drug yourself. You were a courier. You were, at the request of another associate, transporting the drug from the south of the State to Launceston, knowing that someone else intended to sell it. In return, you were going to be paid \$1000 and some accommodation costs for the weekend.

You are now aged 29. You were then aged 27. At that time you were associating with people who used drugs. You began to use cocaine and as your use escalated you fell in with the wrong crowd. You have no prior convictions for drug related offending. With one exception which I will return to in a moment your only record is for traffic offences. You pleaded guilty. Although it was not a particularly early plea it avoids the need for a trial. Moreover I am satisfied that you are sorry for what you did and now realise how wrong it was. You have ceased using drugs, distanced yourself from your former associates and taken steps to get your life back in order. Since you were arrested for this crime you have returned to live with your parents in the Mount Field National Park. They both have a long history of responsible employment and community service and are devastated by your lapse. They are confident that with their support and guidance you will not offend again. A series of other references attest to your considerable achievement as a young man and the contributions you make in other ways. You are a qualified and experienced carpenter, employed as a leading hand with a well-established building company. A reference from the Hobart business manager indicates that you hold a responsible position and are a trusted and valued employee.

All of this satisfies me that you are a person of considerable ability and promise which makes your decision all the more stupid. You are of sufficient intelligence and insight to understand that those who become involved with the trade in illicit drugs should expect to be punished, for reasons which have been stated many times. Even so, the nature and character of the offence is such that I would not have imposed a sentence of actual imprisonment. Your difficulty is that you committed this crime while subject to a suspended sentence for a common assault which was committed on 27 September 2019. On 24 June 2021 you were sentenced to imprisonment for six months wholly suspended for three years from that date. The effect of the legislation which applies to such sentences is that because you have committed another offence punishable by imprisonment I must activate that suspended term unless I am satisfied that it would be unjust. The clear starting point is that the sentence should be activated. I am not considering the original sentence afresh but determining whether activation of the sentence is unjust. Trafficking in illicit drugs is a significant breach. Although the assault was committed in 2019 the suspended sentence was imposed less than a year before this crime. I have concluded however that

activation of the sentence would be unjust. The breach is, although serious, of a different character and since then there has been a real indication of reform and rehabilitation. There has been no further offending of a similar nature. I have concluded that to send a person in your position to prison would be an unduly disproportionate response.

The question then becomes what alternative sentencing orders are appropriate. Home detention would have been a sufficiently punitive alternative. However you have been assessed as unsuitable for home detention because it is incompatible with your employment and would result in the loss of your job. In one sense, these are things you should have thought of before you acted as you did, but there remains a substantial community interest in allowing a further opportunity for your reform. A combination of community service and a further suspended sentence is the appropriate course. Mr Penton was sentenced for trafficking to a wholly suspended six month term of imprisonment and so some issue of parity also arises.

As to the application for breach of the suspended sentence I order that a substituted sentence take effect in place of the suspended sentence. I make a community corrections order for a period of two years from today. The core conditions of that order will be specified in the order you will be given and include that you not commit an offence punishable by imprisonment, that you report to and comply with the directions of a probation officer, that you must not leave Tasmania without permission and that you must notify of any change of address. I impose a special condition that you must, within the operational period of the order satisfactorily perform 84 hours of community service, as directed by a probation officer or a supervisor. If you breach any of those conditions you may be brought back to court and re-sentenced.

You are convicted on the indictment. I make an order that you pay the costs of analysis of the illicit drug in the sum of \$492.50 and order that you pay that sum as part of the costs of the prosecutor. I order that the snaplock bags seized by the police on 12 May 2022 be forfeited to the State. You are sentenced to a term of imprisonment of six months. I wholly suspend that term for 18 months from today.