

The defendant, Mr Le, has pleaded guilty to trafficking in a controlled substance. On 13 December 2020, officers from Northern and Western Drug Investigation Services were conducting drug screenings at the Spirit of Tasmania arrival terminal. Mr Le was the sole occupant of a vehicle that entered the inspection point. The vehicle was screened by a drug detection dog, who provided an immediate positive indication to the inside of the vehicle. An examination of the vehicle occurred. The examination revealed that the centre console had been altered. A Samsung mobile phone was found sitting within that console. The defendant declined to provide police with the PIN to that mobile phone. Found within the console was also a white plastic shopping bag containing a package wrapped in gold Christmas paper. Inside the Christmas paper was a green, Chinese tea packet, which was wrapped in masking tape. Within that was a cryvac bag containing 995 grams of crystal methyl amphetamine. A second package, which was covered with a black cloth, was also located near the transmission section of the console. It was wrapped in an identical manner to the first package. Within that package was 991 grams of crystal methyl amphetamine.

Both packages were seized and subsequently forensically analysed. The crystal methyl amphetamine had a purity of between 80.3 and 80.5 per cent. Forensic examination of the mobile phone revealed that it was a cypher encrypted device, capable of encrypting telecommunications and thereby making it very difficult for law enforcement agencies to gather forensic evidence from the device. The defendant's DNA was found on the front screen of the device. His thumbprint was also found on the device. His fingerprints were found on the first package that was located in the console.

The State's case is that the defendant trafficked in 1,986 grams of crystal methyl amphetamine by importing the substance into Tasmania with the intention of selling it or in the belief that another person intended to sell it. The amount of methyl amphetamine located was more than 79 times the trafficable quantity. At the time the defendant committed the crime, crystal methyl amphetamine was selling for a higher value, namely \$200 to \$220 per point (that is, 0.1 grams) because of the impact of the COVID 19 pandemic. Had the crystal methyl amphetamine been sold to end users in this smaller quantity, it had a street value of approximately \$3,972,000. If it had been sold in larger gram quantities, the street value was approximately \$1,986,000. If it had been sold in the usual wholesale quantities of 28 grams, the street value would have been approximately \$1,418,500.

The defendant was arrested. He spent 139 days in custody before being granted bail on 22 April 2021.

The defendant is 32 years of age. He has no recorded history of criminal offending. He grew up in a close and supportive Vietnamese family. His upbringing, however, was in a part of Melbourne where violence, the drug trade and crime was commonly seen and experienced. He successfully completed his schooling, including obtaining a University degree. He has always been employed. At the time of this crime, he was operating a courier business. He subcontracted out to larger organisations. Many of those organisations had been impacted by COVID 19, thus the defendant was experiencing some financial difficulties in respect to his business. More significantly, just prior to this crime occurring, the defendant's closest friend had suicided. The defendant found his friend's body and also had to make the funeral arrangements. This, I am told, significantly impacted the defendant. He had difficulties in

coping and was not sleeping. He became depressed. He began to use cocaine as a means of self-medicating. He also began to gamble. Within a relatively short period, his drug use and gambling took over his life and he found himself in significant debt. He was unable to service that debt because of the financial difficulties his business was experiencing. It was against that background that he agreed to act as a courier when the opportunity arose. I am told he thought that by transporting the drugs once only, he would earn enough money to clear his debt and start afresh.

The defendant found the time he spent in custody following his arrest particularly difficult. He experienced racism within the prison system and was often targeted. Following his release from prison, he sought professional assistance for his mental health difficulties. He addressed his drug use and, I am told, he has now been abstinent from illicit substances for over two years. He continues to engage in drug and alcohol counselling to ensure his abstinence is maintained and has regularly engaged in psychological counselling to address the unresolved and complex grief issues he experienced following the suicide of his close friend. I have received a report from his Clinical Psychologist which confirms he is making positive progress in this regard. Over the past two years the defendant has also resumed full time employment.

I accept that the period of imprisonment that will inevitably be imposed upon the defendant is likely to be a difficult one. It can reasonably be expected that he will experience similar episodes of racism. His family live in Victoria, thus he will not have the benefit of regular family visits or contact with them.

The scourge of methyl amphetamine is well known. It is frequently commented upon by courts when sentencing. The substance is, of course, highly addictive and causes great harm to individuals and the community at large. Its use and trade generates a great deal of other criminal activity, particularly crimes of violence and dishonesty. As has been made clear in the past by this Court, people who set out to make money from commercial dealings should expect to go to prison and for substantial periods of time. I note the defendant's role was predominately as a courier, although he had obviously touched the packages and, perhaps, had been involved in wrapping them for transport. Whether the defendant was, in fact, involved in that, matters little in my view. There is no contest that the defendant appreciated that he was bringing a substantial quantity of methyl amphetamine into Tasmania. The defendant embarked upon this enterprise to make money. He was willing to be part of an enterprise that led to significant quantities of methyl amphetamine making its way into the Tasmanian community and causing immense harm to many.

I note what was said by Acting Justice Martin in *DPP v Kobelke*. Generally, a drug addicted courier whose role was restricted to a single occasion of transportation of drugs in the hope of receiving money, falls towards the lower end of the scale of seriousness. Whilst I accept that as a general statement of principle, the Court must impose a sentence which reflects the objective seriousness of the defendant's offending. There is nothing to suggest the defendant remained in the grip of a chronic addiction when he made the choice to become involved in this. He had been using cocaine but the defendant submits through his Counsel that he had begun to address his addiction and it was largely under control by the time this crime occurred. The defendant did this to obtain money to alleviate his difficult financial circumstances that had arisen from his accumulation of both a drug and a gambling debt. This was a considered, deliberate decision to become involved in a significant enterprise designed to earn money.

I take into account the defendant's plea of guilty, although I note it could not be said to be an early plea. The defendant had entered a plea of not guilty and the matter was listed for trial. It was only shortly prior to the commencement of the trial that a plea of guilty was indicated. The plea nevertheless retains some utilitarian value, but the weight to be attached to it in the sentencing exercise is slight. The defendant's lack of relevant criminal history and his solid prospects for reform are to be recognised. In my view, the imposition of a minimum non-parole period is the most appropriate way to accommodate that.

In matters of this nature general deterrence and condemnation of this behaviour are weighty sentencing factors. The amount of the drug methyl amphetamine involved here was considerable. A strong sentencing response is required.

I make the following orders: Items 2 to 12 on Miscellaneous Receipt Number 300593 will be forfeited to the State of Tasmania. There will be an order that the defendant pay the cost of analysis of \$3,066.

The defendant is convicted and sentenced to four years' imprisonment to commence from 4 October 2023. I order that he not be eligible for parole until he has served one half of that sentence.