

COMMENTS ON PASSING SENTENCE

BRETT J

Mr Bissett, you have pleaded guilty to one count of trafficking in controlled substances, namely cannabis and MDMA, between 1 January 2016 and 24 February 2016. You have also pleaded guilty to a number of summary offences under the *Misuse of Drugs Act 2001* relating to possession and use of various drugs. The commission of some of these offences coincides with the period during which you were trafficking in controlled substances. The remaining offences were committed in December 2015, just before the commencement of the trafficking. I have agreed to deal with the summary offences pursuant to the provisions of section 385A of the *Criminal Code*.

The commission by you of the crime of trafficking was discovered on 24 February 2016, when police searched your residence and found cannabis and MDMA. The drugs found, in aggregate, exceeded a trafficable amount. You participated in an interview with police that day, in which you admitted trafficking in drugs during the relevant period. Your admissions also related to drug-related activity which preceded the period referred to in the indictment, but the State has confirmed that, apart from context, it does not rely on that activity. Although that prior conduct suggests that you may have been trafficking in drugs for some time, and in significant quantities, you are not to be sentenced for what occurred prior to 1 January 2016, except for the summary offences. Those submissions simply make it clear that your commission of this crime could not be said to have been isolated conduct.

The effect of your admissions is that you were, during the relevant period, selling cannabis in the total amount of 4 ounces per week for a price of \$250 per ounce, and MDMA in the quantity of 20 tablets per week at the price of \$20 per tablet. This constitutes a commercial activity, although at a comparatively low level. It seems that although you used drugs at that time, you did not undertake this conduct to support an addiction. You committed this crime simply as a moneymaking exercise.

You are 20 years of age and have no prior convictions. You seem to have had a reasonable upbringing. You finished your education after grade 10, because you were needed to care for your father, who was ill. He passed away earlier this year from illness. For eighteen months before his death, you looked after him by yourself without any real support from other members of the family and, it would seem, at considerable personal cost to yourself. Having been introduced to drugs by your father, you developed a drug problem and, significantly, an associated gambling problem. The latter issue, in particular, would seem to explain your need for money. However, I am told that you have now given up drugs, that you have obtained good employment and you are working hard.

The conduct which constitutes this crime was significant criminal activity for a person of your age. It is to be hoped that the process of arrest, prosecution and sentence will be a wake-up call for you. Illicit drugs cause untold suffering and hardship in the community and, hence, any criminal activity relating to illegal drugs is most serious. Trafficking, which is the process of distribution of such drugs throughout the community, is the most serious of these offences. Sentences for trafficking invariably require emphasis on general deterrence. It is appropriate, therefore, that a sentence of imprisonment be imposed for the crime of

trafficking. However, given your age, lack of prior convictions and plea of guilty, I will wholly suspend the sentence.

Accordingly, the orders I make are as follows:

- 1 You are convicted of the crime and the offences to which you have pleaded guilty.
- 2 For the crime of trafficking in a controlled substance and the summary offences to which you have pleaded guilty, with the exception of counts 5 and 6 on complaint 52657/16, you are sentenced to a global term of 6 months' imprisonment. The whole of that sentence is suspended for a period of 18 months on the condition that you are not to commit an offence punishable by imprisonment during that period. I will add, as your counsel will undoubtedly advise you, that even committing offences of possession or use of cannabis would be an offence punishable by imprisonment, and would be a breach of your suspended sentence.
- 3 In relation to counts 5 and 6 on complaint 52647/16, you are fined the sum of \$300.

You will pay victims of crime compensation levies of \$270 within 28 days.

You have not disputed the State's application for a pecuniary penalty order pursuant to the *Crime (Confiscation of Profits) Act 1993*, nor the proposed assessment of the quantum of that order in the sum of \$9,800. Having regard to the provisions of the said Act, it is appropriate to make the order. Further, having regard to the provisions of s 22 of the Act, I am satisfied that the amount asserted by the State is a proper assessment of the value of the commercial benefits derived by you from the commission of the crime. I note, in particular, s 22(6), which provides that any expenses or outgoings you have incurred in connection with the commission of the crime are to be disregarded in assessment of that value. Accordingly, pursuant to s 21 of the said Act, I assess the value of the benefits derived by you from the commission of the offence in the sum of \$9,800, and I order that you pay to the State a pecuniary penalty in that sum.

Pursuant to s 38 of the *Misuse of Drugs Act 2001*, I order that the property described in items 6, 7, 13 and 16 of the property seizure record be forfeited to the Crown.