

Mr Davey, you have pleaded guilty to one count of trafficking in controlled substances, namely MDMA and methylamphetamine. You have also pleaded guilty to one charge of possessing thebaine, which is a controlled drug. I have agreed to deal with this charge pursuant to s 385A of the *Criminal Code*.

The criminal conduct occurred on 17 December 2014. It was detected when police executed a search warrant on your residence. They found the following drugs in your possession: 6.3g of methylamphetamine, a total of 87 pills, each containing MDMA – the total weight of the pills was 17g, and 48.5g of thebaine in ground powder form. The basis of the charge of trafficking is that you were in possession of the MDMA and the methylamphetamine with the intention of selling same. By reference to the weight of the drugs, the methylamphetamine had a street value of \$6,300, and the MDMA, between \$3,045 and \$4,350. For some time prior to the commission of these offences, you had a significant addiction to drugs, in particular methylamphetamine. I accept that your intention to sell the drugs was directly related to your need to obtain funds to provide for your addiction. It is clear also that the trafficking was at a relatively modest level. However trafficking of any form is a serious matter because it increases the distribution of illegal drugs throughout the community. Trafficking in methylamphetamine is particularly serious because of the highly destructive and addictive nature of that drug.

You are 22 years of age. In addition to your drug addiction, you have a history of significant mental health and behavioural problems. I am sure that these problems have their genesis in a difficult childhood which was marked by abuse, violence and neglect. Your criminal behaviour commenced when you were a youth and it has continued into your adult life. You have been imprisoned on a number of occasions for serious matters, including crimes of violence. You have previous convictions for drug offences, but before you committed the offences with which I am dealing, you had not been previously convicted of trafficking in illegal drugs. When you committed these offences you were subject to suspended sentences of imprisonment which had been imposed in the Magistrates Court for various offences, including some drugs matters. These sentences have subsequently been activated. You were also dealt with in March of this year for the crime of trafficking, committed after you committed these offences. On that occasion, you were sentenced to six months' imprisonment, most of which was suspended on conditions which included your supervision by a probation officer.

When this matter initially came before me, your counsel made submissions to the effect that your entry into residential programs, either the Bridge Program or Missiondale was imminent. I adjourned sentencing for two reasons. Firstly, to obtain a pre-sentence report, and secondly, to provide time for your entry into one of those institutions. As I discussed with both parties at the time, I was seriously contemplating deferring sentence with your consent during the period you would spend in the residential program. The benefit to you of that course would have been that I would take into account in your favour any real commitment and progress demonstrated by you towards rehabilitation during the program. Unfortunately, you did not take up the opportunity provided to you. You failed to comply with directions from Community Corrections for the purpose of facilitating a report, and you failed to appear in Court on the date of the adjourned sentencing proceedings. A warrant was issued for your arrest and you have been held in custody since that time.

The orders I make in this case are as follows:

- 1 You are convicted of the crime and the offence to which you have pleaded guilty.
- 2 You are sentenced to a global term of five months' imprisonment. I had considered the possibility that I should allocate some of the time spent in custody already by you towards sentence. However, in all the circumstances, given that this was the first offence of trafficking; given that it was trafficking at a relatively low level; and given that I still think, having regard to your age, that there is some real prospect that you will develop a commitment towards rehabilitation, I am prepared to suspend this sentence. It will be suspended for 18 months on the following conditions, to operate from the date of your eventual release from prison:
 - (a) You are not to commit an offence punishable by imprisonment during that period of 18 months.
 - (b) You will be subject to the supervision of a probation officer during that period. All the normal conditions of a probation order will be incorporated into the sentence. These include:
 - (i) you will need to report to a probation officer within one day of your release from prison;
 - (ii) the following special conditions will also apply and will be incorporated into the suspended sentence:
 - (a) you must attend educational and other programs as directed by the Court or a probation officer;
 - (b) you must undergo assessment or treatment for alcohol or drug dependency as directed by a probation officer;
 - (c) you must submit to testing for alcohol or drug use as directed by a probation officer;
 - (d) you must submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.

You will pay victims of crime compensation levies of \$70 within 28 days of your release from prison.

I order that, pursuant to s 36B (2) of the *Misuse of Drugs Act* 2001, you pay to the State of Tasmania the cost of the analysis of \$1,500.

I further order that, pursuant to s 38 of the *Misuse of Drugs Act* 2001, the digital scales, snap lock bags, plastic container holding powder and pills, plastic bags with traces of a white substance listed on Tasmania Police Property Seizure Records 123436 and 123437 be forfeited to the State of Tasmania.