

STATE OF TASMANIA v JOSHUA JAMES BARDA
COMMENTS ON PASSING SENTENCE

18 MARCH 2024
BLOW CJ

I have to sentence Mr Barda on two charges of trafficking in a controlled substance. Both of those charges relate to methylamphetamine. The first charge related to a period between 21 June 2020 and 9 July 2020, a period of 19 days. He pleaded not guilty to that charge. He went to trial some months ago and the jury were unable to agree. He stood trial a second time before me in December and the jury found him guilty. That charge related to Mr Barda's activities in relation to a business of drug trafficking that was being carried on by a woman named Kellie Umgeher, usually known as Kellie Rhodes. She imported or attempted to import some very large quantities of methylamphetamine into Tasmania during the period to which the charge related. It was Mr Barda's role to assist her in miscellaneous ways in the operation of her business. There was circumstantial evidence that he assisted her in 15 different respects during the period in question. The jury found him guilty and I am satisfied beyond reasonable doubt that in all of the respects relied upon by the Crown he participated in the operation of Ms Rhodes' business. Altogether the value of the methylamphetamine to which the charge related would have been about \$1.46 million if it had been sold by the ounce, or about \$2.9 million if it had been sold by the gram. It would have been worth more if sold as it usually is to users by the point, a point being one tenth of a gram.

An accomplice by the name of Lisa Harwood was in Melbourne working for Ms Rhodes. On 21 June 2020 she went to a post office in Melbourne and posted three parcels containing methylamphetamine to Hobart in express post bags. In relation to those three parcels, Mr Barda did the following things. First of all, he monitored the movement of one of the parcels through the Australia Post network using the internet. Secondly he went to the Hobart Airport on 22 June 2020 to collect Ms Harwood, but he left without her when she was intercepted by the authorities. He set up an Australia Post MyPost account using the name Kim Smith. He arranged for the mobile number of Ms Rhodes and an email address in a deceptive name to be added to that account so that she, and perhaps others, could monitor that account. He attempted to arrange for one of the three parcels to be redirected. He did that by phoning Australia Post and speaking to a postal officer. He rang Australia Post the next day, 24 June 2020, to enquire about the delivery of that same parcel and to attempt to arrange for it to be collected. The other two parcels were intercepted by the police. The contents were removed and an inert substance was put into the parcels in place of the drug. They were then delivered by an Australian Federal Police Officer disguised as an Australia Post officer to an address in West Moonah. Mr Barda went to that address for the purpose of collecting the two parcels. When police officers were about to enter the premises he threw the two parcels, which had been put into Woolworths plastic shopping bags, up onto the roof of the premises where they could not readily be seen. He did that believing they contained the methylamphetamine that had been posted from Melbourne. At that point he was arrested. He spent one night in custody and was bailed in the Magistrates Court the next day. He continued the trafficking activities having been released on bail.

On 1 July 2020 he went on a journey somewhere in Tasmania by car at the request of Ms Rhodes and collected a gram of methylamphetamine and delivered it. Then there was an expedition where Ms Rhodes and another accomplice travelled to Melbourne for the purpose of importing a very large quantity of methylamphetamine into Tasmania. Mr Barda did not go to Melbourne but he did some of the administrative work in relation to that expedition, from Hobart. First he booked flights for Ms Rhodes and her companion to travel to Melbourne.

They did that using false identities and false identity documents. Next, he booked accommodation for them at various places in Melbourne for the few days that they were there. At one point he made enquiries about booking a rental car for Ms Rhodes to use in Melbourne, although the arrangements that he began to make did not proceed to fruition. Ms Rhodes made other arrangements for car rentals in Melbourne. Next he booked travel on the Spirit of Tasmania for Ms Rhodes and her companion to travel back from Melbourne to Devonport, leaving on 7 July 2020. However they missed the boat. Then he made enquiries the next day, 8 July, with a view to booking a charter flight for Ms Rhodes to come back from Melbourne. That plan did not go ahead.

The other thing that he did concerned a vehicle that was purchased for the purpose of importing the drugs. Arrangements were made for a Commodore to be purchased from a man in rural Victoria, for repairs to be carried out so that it could be driven, and for a large quantity of methylamphetamine to be hidden in the petrol tank and brought into Tasmania on the Spirit of Tasmania to the terminal where that ship berths at East Devonport. Those arrangements all went ahead. The police intercepted Ms Rhodes, her companion, the Commodore and the methylamphetamine when the ship berthed. The point of all of this is that, as well as arranging things like travel and accommodation in Melbourne, there was one occasion when Mr Barda participated in these arrangements by contacting the man in Victoria who was selling the Commodore.

So that was the extent of his involvement. It was involvement as an assistant in a very large enterprise carried on by Ms Rhodes. I have mentioned the fact that the latter part of all this, including the participation in relation to the expedition with the Commodore, was at a time when Mr Barda had been arrested, charged and bailed. Apart from that, he had a suspended sentence hanging over his head. It had been imposed some months previously. It was a sentence of four weeks' imprisonment. He breached the conditions of that suspended sentence by committing an offence punishable by imprisonment whilst on bail.

The second charge relates to another period of trafficking in the same drug, working for the same boss, during the period from 2 July 2021 to 22 September 2021. During this period Mr Barda made sales of the drug in the course of Ms Rhodes' business. She was charged in relation to a very substantial quantity of drugs and it was certainly a very substantial business. The State was not able to quantify the quantity of the drug that were sold during the period in question. It contended that at least 203.5 grams of the drug was sold in the course of Ms Rhodes' business during the period in question. It is a period of just under seven weeks. The Crown asserted that the proceeds of sale would have been somewhere between about \$170,000 and about \$300,000. However it cannot be said that Mr Barda was involved in trafficking on that scale. Ms Sabapathy has identified transactions that the police became aware of in which he was involved in the sale of a total of 19.9 grams of the drug. However it was a situation where, having been charged in relation to the 2020 trafficking and bailed in relation to the 2020 trafficking, he got involved in trafficking in methylamphetamine again on a significant scale over a period exceeding two months.

Mr Barda was 25 at the time of the 2020 trafficking, and 26 at the time of the 2021 trafficking. He is now 29. He grew up in Victoria and has some prior convictions for minor drug offences, mainly in Victoria. He has prior convictions in Tasmania for drug related offences of dishonesty and for driving offences. In particular he has five convictions in Tasmania for driving with illicit drugs in his oral fluid or in his system. He has never been sent to prison,

although he was ordered to perform community service in Victoria in 2017 and he has had a couple of suspended sentences in the past.

He has an unfortunate personal history. He has been suffering from post-traumatic stress disorder from the age of 15, when he saw the aftermath of a car accident in which his dearest friend was killed. He took to drugs. He became addicted to amphetamine. He has suffered subsequent traumatic experiences as a result of the people that he was mixing with in the drug world. He has been sexually assaulted, and I was told that he has been kidnapped. He became involved in Ms Rhodes' enterprise in order to finance his drug use. He had made a move to Tasmania in 2018 to make a new start but he did not succeed in staying away from drugs and he found himself in a situation, certainly in 2021, where he owed a drug debt that he could not pay and was selling drugs in the hope of paying off that drug debt. That is not a mitigating factor. It is simply a statement of how it came about that he was committing this crime again.

Despite his addiction he has had a good employment history. He has held a number of retail positions in Tasmania. He lost one of those positions before his first trial as a result of publicity but began working for another retailer and even worked for that retailer between his first and second trials. The retailer knew about the charge that was pending.

It counts in his favour that he has pleaded guilty in relation to the 2021 charge. However the same cannot be said in relation to the 2020 charge. He has a partner. His partner, I was told, has complex mental health issues. He was the full-time carer for his partner before I remanded him in custody in December. His partner is substantially disadvantaged as a result of Mr Barda having become a prisoner and Mr Barda's regret about the impact of all of this on his partner is also something that I must take into consideration.

I remanded him custody on 14 December last year. Prior to that I am told he had spent four days in custody in relation to these matters. I will therefore backdate the sentence I am about to impose to 10 December. I will also fix the shortest non-parole period because it is Mr Barda's first time in prison, and hopefully his only time in prison. But I have to impose a substantial prison sentence given the scale of the trafficking, the terrible things that methylamphetamine does to people, the consequences of the crimes committed by users, and the fact that Mr Barda continued trafficking after being charged in June 2020 and resumed trafficking in 2021.

Joshua James Barda, I convict you and sentence you to 5 years 6 months' imprisonment with effect from 10 December 2023. You will not be eligible for parole until you have served 2 years 9 months of this sentence. I order the forfeiture to the State of Tasmania of the items listed in paragraph 10 of the document headed Submissions Relating to the Jury Verdict that was provided to me on 1 March 2024, and the items listed in paragraph 91 of the Crown statement of facts relating to the 2021 charge. I order that you pay costs of analysis amounting to \$775 in respect of the first charge and \$1247 in respect of the second charge.