

Rachel Emma-Sue Devine has pleaded guilty to one count of trafficking in controlled substance, namely methylamphetamine. On 27 April 2021, her home at Gepp Parade, Derwent Park, was searched by police and 30 snap-lock bags of methylamphetamine were found in various locations in the laundry. Also found were a set of electronic scales. When the defendant was interviewed, she admitted the methylamphetamine was hers and said that she used the drug on a weekly basis.

The defendant had possession of methylamphetamine for the purpose of trafficking, and this is not a case involving past transactions.

The methylamphetamine in the defendant's possession amounted to a trafficable quantity by virtue of the number of individual packages of it, not the total weight involved. The *Misuse of Drugs Act* provides that a trafficable quantity is 20 individual packages, and in this case there were 30 packages. The quantity of methylamphetamine was not a significant amount compared to other cases of trafficking that come before this Court. The total weight of the methylamphetamine involved was 2.88 grams, while a trafficable weight is 25 grams.

The defendant admits, by her plea of guilty, that she had possession of at least some of the methylamphetamine for the purpose of trafficking.

The defendant is now 40 years of age. At the time of offending, she and her husband were living in the house that was searched by police with their two children. She has prior convictions, including a conviction for trafficking in a controlled substance involving cannabis, and a joint enterprise with her husband of growing plants in hydroponic grow rooms. She was sentenced in 2011 with respect to that crime to a suspended term of imprisonment of eight months, and a probation order. She also has an early prior offence of grow prohibited plant, which was adjourned without conviction and subject to her good behaviour. She has some other relevant prior offending, including dishonesty, driving offences, assault, and damage to property. In 2014, she was sentenced in the Supreme Court to two counts of obtaining a financial advantage by deception, which attracted a suspended term of imprisonment and a community service order. The defendant has not been sentenced to a term of actual imprisonment.

However, she must be aware now that she does face the risk of such a sentence for what will be her second conviction for drug trafficking.

I ordered a home detention assessment but unfortunately Ms Devine is not a suitable candidate for that sentence due to circumstances beyond her control, not because of a poor attitude or a lack of expected compliance by her. Ms Devine has long-standing mental health issues and a history of depression and anxiety symptoms, and the isolating nature of home detention was seen as potentially detrimental to her.

Almost three years has lapsed since the crime was committed. Since then, the defendant and her husband have had their third child, a son with high needs. Due to what appear to be probable developmental delays, he is awaiting paediatric assessment. Indeed, he now has an appointment in recognition of the fact that he requires an urgent assessment. The defendant and her husband realise their son is going to need significant support and that he will be referred to therapy and programs. The defendant is the primary care provider for their child, and if she is unable to care for her son, her husband will have difficulty assuming this role given the

essential role she has had in their son's care and the level of parenting and support their son requires.

As a consequence of her son's needs, Ms Devine's priorities and lifestyle have changed and she is now focussed on assisting with his development.

Ms Devine used methylamphetamine for about 12 months prior to committing this offence in 2021 but has been abstinent since then. Her son is her primary motivator to remain abstinent from illicit substances.

Community Corrections have indicated that Ms Devine requires targeted support in relation to her mental health, employment, and substance abuse issues, involving relapse prevention strategies.

In light of the nature of the offending, the progress that has been made by Ms Devine, and the motivation her to reform provided by her son on an ongoing basis, I am satisfied that a Community Correction Order with a community service order meets the needs of deterrence and punishment but allows Ms Devine to continue to make good progress. An order will be made that she must pay the costs of analysis, and I note this is a significant financial burden and itself a punishment.

Ms Devine, having regard to your current circumstances and the incentive you now have to reform and, to be frank, to stay out of prison, I impose the following orders. I record a conviction and I impose a Community Correction Order which is to be in place for two years from today. That order carries all of the statutory core conditions provided for in the *Sentencing Act*, which include that you must not commit an offence, any offence that could attract a sentence of imprisonment, for a period of two years from today; you must report to Community Corrections at 75 Liverpool Street no later than 4.00 pm tomorrow; you must comply with all the reasonable and lawful directions of a probation officer; you must not leave or remain outside Tasmania without the permission of a probation officer; and you must give notice of any change of address or employment before, or within two working days, after the change.

In addition, I impose special conditions. One of these is that you must satisfactorily perform and complete 98 hours of unpaid community work within the period of two years and you must be subject to the supervision of a probation officer for that same period again, two years. I impose a further condition that you must attend drug and alcohol counselling and treatment, including relapse prevention assistance, as directed by your probation officer. You must submit to medical, psychological, or psychiatric assessment and treatment as directed by your probation officer. You must also attend educational and other programs as directed.

I make the orders which have been sought by the State, which is a forfeiture order with respect to drug-related property that was seized by police: namely, the snap lock bags, scales and the two tick sheets.

I make an order pursuant to the *Misuse of Drugs Act* s 36B that you pay the costs of analysis in the sum of \$5,910.