

STATE OF TASMANIA v TOBIAS ODDIE-JONES
COMMENTS ON PASSING SENTENCE

GEASON J
10 SEPTEMBER 2021

Mr Oddie-Jones, you appear for sentence upon your plea of guilty to a single count of trafficking in a controlled substance contrary to s 12(1) of the *Misuse of Drugs Act* 2001.

Operation Gault was commenced in 2020 to investigate the suspected importation and distribution of methylamphetamine into this State.

On 5 July 2020 you travelled from Hobart to Melbourne on a Jetstar flight. You were in the company of another person. You stayed at a hotel that evening, and the following day you and your travel partner checked out of that hotel and moved into another. That day you purchased a Holden Commodore station wagon for \$11,000 and another vehicle a black Mercedes Benz CL250 sedan.

On Tuesday 7 July 2020, you travelled to Bunnings in Port Melbourne and purchased tin-snips and water-proof tape. You made a booking to travel on the Spirit of Tasmania departing 7 July 2020 at 6.30pm. You did not turn up for that booking. The following day you attended at the Port Melbourne ferry terminal and boarded the Spirit of Tasmania. You travelled in tandem with your travel partner, who was driving the Mercedes Benz. You were driving the Commodore. At 6.30am you docked in Devonport. At the biosecurity check-point you separated into two lanes. Police approached your vehicle and opened the driver's side door. You were the sole occupant of the vehicle. A positive indication for drugs was given by the drug detection dog. A frisk search led to the recovery of a Telstra mobile phone from you. You told police that your belongings were in a backpack on the front seat. That backpack was located and contained 33 snap-lock bags. There was also a pair of trackpants. Under caution you were interviewed and stated that you travelled to Melbourne with another person for the sole purpose of assisting her to purchase a car and drive it back to this State. You said the car was purchased for \$11,000 and told the police that the Commodore did not leave your possession after it was purchased. When asked to explain why the drug detection dog had detected drugs in your car you stated that you had smoked some dope before you got on the boat, but that there were no other drugs in the car. You were arrested. The commodore vehicle was transported to the police station. As systematic search of the vehicle revealed the following:

- 1 Two plumbing PVC pipes located in the fuel tank of the vehicle, with the end caps glued.
- 2 The PVC pipes were opened and found to contain four separate snap-lock bags containing 203.4 grams of crystal methylamphetamine.
- 3 In the second PVC pipe there was one snap-lock bag containing 273 grams of crystal methylamphetamine.
- 4 All the plastic packaging located in the PVC pipes was in Coles branded snap-lock bags, visually similar to the ones located in your backpack.
- 5 On the back seat of the vehicle, police located a pair of red and black handled tin snips and a roll of clear tape. There were a number of hand tools. One of the screwdrivers had traces of the glue visually similar to that on the pipes.

- 6 The handsaw was found to have white and clear plastic shavings on it, more of which were found on the rear passenger side footwell of the vehicle. These were indistinguishable from the plastic on the PVC pipes found in the fuel tanks.
- 7 The trackpants were found to have weathered petrol on them consistent with your having gained access to the fuel tank of the vehicle.

You provided police with your mobile phone. Messages located on that phone confirmed that you were in Melbourne for the purposes of procuring drugs. The State asserts that you trafficked 476.4 grams of methylamphetamine by having it in your possession with the intention of selling it or alternative that you imported it into this State with the intention of selling it in the belief that another person intended to on-sell it. This quantity was more than 19 times the trafficable quantity.

In a video-recorded interview you denied any involvement in cutting a hole under the rear seat of the car; denied any knowledge of the PVC pipes; said the tools located in the vehicle were not yours; denied owning the backpack or the snap-lock bags; admitted to travelling and staying in various hotels in Melbourne with another person. You accepted that a photo on your mobile phone depicting four bags of methylamphetamine and a tattooed forearm depicted your arm. You denied taking the photo but agreed it was taken in Melbourne. You said that the messages on your phone related to the sale of jewellery and not drugs.

The street value of the drugs found ranges between \$238,200 if sold in single gram lots and \$476,400 if sold by the point. Wholesale selling of methylamphetamine usually occurs in 28 gram lots, the value of which would range from \$136,000 to \$170,000.

As well as sentencing you for that offence I am asked by the State to activate a suspended sentence imposed in the Magistrates' Court on 26 October 2018. This offending occurred in breach of that order. That is an aggravating matter in itself. The sentence which was suspended was a sentence of six months' imprisonment. Whilst I note that that penalty related not just to drug matters but also to driving and traffic matters, I take the view that the sentence should be activated.

I have received detailed submissions on your behalf and the Court is assisted by them. You are currently 32 years old, and you were 31 at the time of the offending. You are not a youthful offender, and you present as someone with a good upbringing who enjoyed a normal childhood. You are single without dependents.

You have enjoyed a good employment record on the whole, and you have plans to undertake work as a mechanic in the future. Your health is good. Apparently you commenced alcohol use at the age of 16, and you have struggled with that. You commenced using drugs when you were aged between 17 and 18, initially cannabis but later methylamphetamine. This has increased to a daily habit. I am told that you had been clean now for a little over 3 months. You have not been charged with any further offences since this offending and I have regard to that. Though it is a short period, it does represent some progress. I am told by your counsel that your involvement was as a courier, that you did not intend to do more than provide the drug to the person who intended to sell it to others. You were never paid and you did not receive a share of any profits.

I have regard to your early plea of guilty, and accepted the utilitarian benefit of that course. I will reduce the penalty I would otherwise have imposed by 20% on account of that early plea.

The scourge of methylamphetamine is well known. It is frequently commented upon by courts when sentencing. By your actions you would have assisted in the dissemination of that drug, and the fact that you were willing to do so requires a punishment which reflects the need for personal deterrence and one which deters others. Activities such as yours represent the means by which drugs are introduced into this community.

I accept that you are not an entrepreneur, and that the penalty should reflect the more limited involvement which, by your plea, you acknowledge. In *DPP v Kobelke*, Acting Justice Martin identified the conduct of a drug addicted courier whose role was restricted to a single occasion of transportation of drugs in the hope of receiving money to finance their addiction, as at the lower end of the scale of seriousness. Whilst I am prepared to accept that characterisation, by way of general statement of principle, the Court must of course impose a sentence which reflects the objective seriousness of your offending. In my view, the level of sophistication associated with your conduct and the quantities involved is such as to indicate that your offending is a serious example of this crime, though I accept that it is not at the most serious end of the spectrum.

In fixing penalty, I have regard to totality, noting the application to activate the suspended sentence: having determined that that sentence should be activated, and because I take the view that such sentence should be served cumulatively to any sentence imposed for this offending, the totality principle is engaged.

In all the circumstances, I have determined that a sentence which affords you some prospect of advancing your rehabilitation through release on parole should be imposed.

Mr Oddie-Jones, the sentence of the Court is as follows:

- 1 You are convicted and sentenced to 2 years' and 6 months' imprisonment.
- 2 I direct that you not be eligible for parole until you have served 15 months of that sentence.

I activate the suspended sentence. That sentence of 6 months is to be served cumulatively to the sentence I have just imposed.

The State seeks a number of consequential orders. I make those orders as follows: Pursuant to s 11(1)(a) of the *Crime (Confiscation of Profits) Act 1993*, the Holden Commodore station wagon, seized on 9 July 2020 is forfeited to the State as tainted property. For the purposes of s 16(4) of that Act I accept that the value of that property is \$11,000. The operation of that order is adjourned sine die.

I further order that pursuant to s 36B of the *Misuse of Drugs Act 2001*, you pay half the costs of analysis, being \$626.50.

I make an order suppressing publication of this sentence against the finalisation of the trial of the person with whom Mr Oddie-Jones travelled to Melbourne.