

Mr Gibbons, you have pleaded guilty to one count of cultivating a controlled plant for sale, and one count of trafficking in a controlled substance, namely cannabis. I am also dealing with your pleas of guilty to various summary offences being using a controlled plant, namely cannabis; seven counts of possessing a firearm when not the holder of a firearm's licence of the appropriate category; seven counts of possess an unregistered firearm; two counts of possess ammunition when not the holder of an appropriate firearm's licence; one count of possess a silencer; and two counts of possess a controlled drug – one in respect to lysergic acid and one in respect to psilocybin mushrooms.

On 4 April 2023, police searched the residence where you were living. It was a rented premises consisting of a two-bedroom unit with a converted school bus adjacent to it, which was also used for accommodation. You were present when police arrived and you told them that there was both cannabis and firearms on the property. Inside the school bus the following firearms were located:

- An unregistered Ruger .22 Mark 1 target pistol with silencer;
- An unregistered Boito 410 shotgun;
- An unregistered Lithgow .22 rifle;
- An unregistered Baikal .22 bolt action rifle;
- An unregistered Remington .22 pump action rifle;
- An unregistered Zanano Oscar sawn off/shortened 12 gauge shotgun;
- An unregistered Marlin 17 HMR bolt action rifle; and
- A quantity of various ammunition, including 410 shotgun cartridges and .22 ammunition.

Three of these firearms were, in fact, stolen although it is not asserted that you knew this. In various locations police also found a significant quantity of cannabis and other drug-related items. Within the school bus they found 1.894 kilograms of cannabis, predominately in bud form; four bottles of cannabis oil; some cannabis resin and cannabis seeds, a number of used smoking devices and some snap lock bags. They also found three LSD tablets and 30.12 grams of the mushrooms.

In a nearby yard compound, they found 14 cannabis plants. One of the plants was stripped and it yielded 691.44 grams, or 24.38 ounces, of cannabis bud. The plants were of decent quality. In a nearby hot house, there were 35 cannabis plants growing. Also found were nine cannabis root balls and a quantity of chemicals used in cannabis cultivation. Also at the residence, police located a drying room. Within this room, there was 850 grams, or 30 ounces, of cannabis bud and a further 5.5 kilograms of cannabis product. Police located three further grow rooms on the property. In the first grow room they located 25 cannabis plants, four grow lights, two ballast boxes, two timers and a fan. In a second room they located eight cannabis plants, eight ballast boxes, three timers, seven grow lights and four fans. In a grow room in the hallway, they found seven cannabis plants, nine cannabis seedlings, seven cannabis cuttings, 37.62 grams of loose cannabis, 363.34 grams of cannabis stalk, 118.03 grams of cannabis stalk with bud, 129.91 grams of cannabis stalk with bud and leaf, a quantity of chemicals used in cannabis cultivation, grow lights, a fan and a de-budding device.

In total then, there were 115 cannabis plants found. There was 9.6 kilograms of cannabis product found. From this quantity, 3,436.05 grams was exclusively cannabis bud. On the

assumption the cannabis plants would have yielded approximately four ounces per plant, each plant was valued at approximately \$1,000. If the cannabis bud had been sold by the pound, its value was \$19,000. If it had been sold in a lesser quantity, by the ounce, its value was \$29,875. The cannabis in your possession therefore had a potential total value of \$144,875.

The amount of cannabis in your possession was in excess of five times the trafficable quantity if assessed by plants, and three to nine times the trafficable quantity if assessed by weight.

You were arrested. You were interviewed by police. You admitted that you knew about the firearms and that you did not have a firearm's licence. You accepted the firearms were in your possession, although you suggested that you were holding them for somebody else. You admitted all the cannabis was in your possession and that you had grown and harvested the cannabis. You told police you commenced growing the cannabis on the property approximately six months earlier. You said you grew the cannabis under lights and then moved the plants outside once they were established. You said you were a heavy user of cannabis and intended to use the cannabis yourself. You have pleaded guilty to the cultivation charge on the basis that you cultivated the plants intending to use a portion of the cannabis yourself, but also understood that another person would collect the balance and sell it. You have pleaded guilty to the trafficking charge on the basis that you prepared the substance for supply with the belief that another person intended to sell it.

I am told that you are heavy user of cannabis and have been for many years. You suffer from a degenerative back condition. The onset for this was an injury that you sustained whilst at work in 2008. Then in 2012 you injured your neck and broke your C1 vertebrae. The result of these two injuries is that you experience pain daily. You have been prescribed opiate pain relief medication for many years. The medication led to several adverse side effects. You made the decision to cease the use of such medication. Withdrawing from it, led to a deterioration in your mental health and you experienced suicidal ideation. You began using cannabis to assist with pain relief, and in your view, stabilise your mental health. You needed a lot of cannabis for pain relief because your preference was to make cannabis oil to consume. You started cultivating cannabis for this purpose, but the venture grew. It seems you entered into an arrangement with your landlord to cultivate cannabis, take what you needed, and the rest would be collected by him and sold. The benefit of this arrangement for you was an ongoing supply of cannabis and a long-term tenancy at the property, which was important to you as it provided stability for your daughter, who suffers from a number of impairments. It is submitted on your behalf that beyond the provision of cannabis, you were not to gain financially from this arrangement. In my view, given the scale of this operation, that is a difficult proposition to accept.

This was quite a sophisticated set up. You had a number of grow rooms in operation simultaneously so as to ensure a constant supply of product. The grow rooms were serviced by lights, fans and watering systems. Fertilisers were used to maximise growing potential. The compounds were protected by chicken wire and fencing. The hot house was of a substantial size and also protected by netting and fencing. The cannabis found was relatively healthy and if the cannabis had grown to fruition and had been harvested, it was worth many thousands of dollars. There was nearly 10 kg of cannabis product found, much of it bud, and yet only four bottles of cannabis oil. I also note, and it is significant in my view, that you did not tell police that the main of this cannabis was being grown for another person to sell.

Whilst I accept that another person was involved in this enterprise, and that person was in it for profit, I find it difficult to accept that you would go to the trouble of growing and harvesting the cannabis to the extent that you did, without there being some financial benefit for you. I accept one aspect of that benefit was your ongoing access to cannabis, but I find it unlikely, given the amount of cannabis involved and the sophistication of the setup, that there would not have been some monetary benefit from this enterprise flowing to you. I cannot determine what profit you would have eventually received had the enterprise continued. It is a matter that is simply undeterminable. But I will sentence you on the basis that you became involved in this enterprise predominately to ensure a cannabis supply for yourself, but also for financial benefit.

You are 49 years of age. By way of relevant prior convictions, in 1992 you were convicted of possessing a prohibited substance and possessing part of a prohibited plant. In 2007 you were convicted of supplying a prohibited substance, possessing a prohibited substance, growing a prohibited plant and possessing part of a prohibited plant. You also have offences under the *Road Safety (Alcohol and Drugs) Act* for driving with an illicit drug present in your oral fluid. There is nothing on your prior convictions suggestive of commercial dealings in cannabis.

You had a solid work history until the injury to which I have referred occurred in 2008. Thereafter, because of your ongoing pain issues, you have been unable to work. You have four children. You have been the primary carer for those children as their mother suffered with alcoholism. It fell to you to raise them. All of your children are now adults, but your 21-year-old daughter was born with foetal alcohol syndrome, and this has led to a significant intellectual impairment. She lives with you, and you are her primary carer. She is highly dependent upon you and is incapable, I am told, of independent living. She has a NDIS support package in place.

I am told you have now severed ties with your landlord, although it seems you remain living on the property. You have accepted responsibility for your involvement in this enterprise and you have pleaded guilty at an early opportunity. I take into account that the firearms were kept in the school bus where you slept. That, of course, is not to say that they could not have been stolen by others and, of course, that is always a significant risk when one illegally possesses and stores a significant quantity of firearms such as is involved here. The danger was exacerbated by the fact that ammunition was also located with the firearms, and of course these firearms were on a property where there was a significant quantity of cannabis. The temptation for others to break in is obvious and thus the storage of firearms on the property was in my view, fraught with risk.

The unlawful presence of firearms within the community and their availability to, and potential use by, criminals is a matter of great concern to the public. The unlawful possession of so many firearms is a serious matter.

As to the drug charges, as I have noted, there was a significant quantity of cannabis involved, although I accept the period over which you cultivated and trafficked the cannabis was short. Parliament has made cannabis a controlled plant and hence a controlled substance, and the growing, possession and use of it is illegal. Actual and intended commercial dealings are prohibited and must be viewed as serious crimes. Factors of denunciation and general deterrence are important. Trafficking in controlled substances almost invariably leads to sentences of imprisonment. I am satisfied that such a sentence is appropriate here. The question with which I have grappled is whether you should be immediately required to serve that sentence of imprisonment. Obviously, your daughter's reliance upon you and your own

poor state of health are relevant to this consideration. I had you assessed as to your suitability for a Home Detention Order. Unfortunately, because of where you live, the electronic monitoring device will not be effective, and you are not deemed suitable for such an order. A community-based supervision order is, however, recommended.

On balance, I am persuaded that there is sufficient in your personal circumstances, and particularly your long history of severe pain, which has exacerbated your mental health difficulties, together with the care role you provide for your daughter, to justify some leniency. I have determined I should afford you the opportunity to avoid immediate imprisonment. You should understand, Mr Gibbons, this was a finely balanced determination, and you should not waste this opportunity.

I make the following orders. You are convicted of all crimes and offences to which you have pleaded guilty. I impose one sentence. You are sentenced to 18 months' imprisonment, the whole of which will be suspended on condition that you do not commit any offences punishable by imprisonment for a period of two years. Additionally, I make a Community Correction Order with an operational period of 12 months. All the standard conditions provided for in the *Sentencing Act* will apply. Additionally, there will be a special condition that you attend, participate in, and complete the EQUIPS addiction programme if directed to do so by a probation officer.

I make a forfeiture order in respect to all items listed at paragraph 15 of the Crown's Statement of Facts.