

STATE OF TASMANIA v AARON ANDREW STOKES
COMMENTS ON PASSING SENTENCE

11 NOVEMBER 2024
MARSHALL AJ

Mr Stokes has pleaded guilty to one count of cultivating a controlled plant for sale contrary to s 7(1) of the *Misuse of Drugs Act* 2001. The particulars of the offence are that on or about 20 January and 20 April 2023, Mr Stokes cultivated a controlled plant for sale namely cannabis. Mr Stokes has also pleaded guilty to an offence under s 66A(2) of the *Crime (Confiscation of Profits) act* 1993. The particulars of that charge are that he on 20 April 2023 dealt with property namely \$6,560 in cash knowing it was the proceeds of crime.

Mr Stokes is a 46 year old man with a history of depressive illness. He resides on a property where the police discovered a hydroponic cannabis set up of moderate sophistication. Police found 24 mature cannabis plants at the property and 44 developing plants. The value of the cannabis found at the property was in the order of \$24,000 to \$28,000. To assist him in struggling with depression and his emotions, Mr Stokes used cannabis and was in the process of making cannabis oil to assist him with his illness. His set up was not designed for the main purpose of selling cannabis but for the production of cannabis oil largely for personal use. However, some of the cannabis grown at the property was sold to others to help offset the cost of the hydroponic setup. He had spent more money on that setup than he has received from the sale of cannabis.

Mr Stokes no longer has a need to grow or sell cannabis. He has now been prescribed cannabis flower to assist him with his low mood. He has benefited from the prescription drug.

Mr Stokes risk of reoffending is low, he has cooperated fully with the police and entered a relatively early guilty plea. He is gainfully employed as a musician. He is married with a young family and has no relevant prior convictions.

In sentencing Mr Stokes the Court takes into account general deterrence as the major sentencing factor. Given the relatively small number of plants found at Mr Stokes property, and the lack of an operation of significance at the property, the offending can be viewed as at the lower end of offending for breaches of s 7 of the *Misuse of Drugs Act*.

In all of the circumstances, the Court imposes a sentence of six months' imprisonment wholly suspended on a condition that Mr Stokes commit no offence punishable by imprisonment for a period of 12 months. The Court also makes a community based supervision order for a period of 12 months. The conditions of the order are that Mr Stokes must not during the operational period of the order commit any offence punishable by imprisonment. Mr Stokes is required to perform community service for 45 hours over a nine month period under the supervision of community corrections.

The State has also applied under the *Crime (Confiscation of Profits) Act* for an order that the \$6,560 in cash found at the property be forfeited to the State as tainted property under that Act, I make that order and also convict in addition to the conviction under the *Misuse of Drugs Act*, convict Mr Stokes of an offence under s 66A(2) of that Act.

A term of six months' imprisonment is imposed for that offence which is to be wholly suspended for a period of 12 months pending no further offending which would make Mr Stokes liable for a term of imprisonment within the next 24 months. That sentence is to be served concurrently with the sentence under the *Misuse of Drugs Act*.

I also make an order under s 38 of *Misuse of Drugs Act* that the following items on property seizure record dated 20 April 2023 be forfeited to the State of Tasmania. They are 2(a), 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37, 38, 44 and 45.