

STATE OF TASMANIA v LACHLAN JAY WILLIAM FARAH 13 DECEMBER 2024
COMMENTS ON PASSING SENTENCE ESTCOURT J

The defendant, Lachlan Jay William Farah, born on 17 September 1999 and thus aged 23 at the time of the offending, has pleaded guilty to one count of trafficking in controlled substances between 26 May 2020 and 26 May 2022.

I have also agreed pursuant to 385 A of the *Code*, to deal with a number of firearms and drug offences on complaints 5216, 5217 and 5219 of 2022.

At the time of the offending, the defendant was residing at [address stated] with his mother. The defendant has never held a firearms licence.

At approximately 10:00 am on 26 May 2022, Tasmania Police executed a drug related search warrant at the defendant's home address. Police searched the defendant's bedroom and found the following items:

- Boito 456 Supreme 12-gauge double barrel shotgun. The serial number matched that of a firearm that had been registered as stolen;
- Brno ZKW .22 calibre rifle with scope attached located unloaded on a bedside cabinet. This firearm had its serial number scratched off and as such considered unregistered for the purposes of the *Firearms Act* 1996;
- Lanber Ibar 12-gauge double barrel shotgun (serial number 107189) located in an unlocked metal cabinet. The serial number matched that of a firearm that had been registered as stolen;
- Disassembled single barrel Winchester 37A 12-gauge shotgun that had been deliberately shortened by cutting down the barrel and the stock to a length of less than 65 centimetres. The firearm had its serial numbers scratched off and as such considered unregistered for the purposes of the *Firearms Act*;
- 256 x assorted ammunition, none of which was stored in a manner required under the *Firearms Act* 1996;
- 2 x digital scales;
- A large quantity of zip lock bags. The defendant told police that he designed the stickers marked "Speciality Exotics" himself and he puts them on the bags that he sells cannabis in;
- \$7,280.00 in cash;
- Various controlled substances, including:
 - 2,803.2 grams of cannabis packaged in 142 separate bags and three separate containers of which approximately 432 grams was off-cuts;
 - 13.58 grams of cocaine;
 - 1.41 grams of pink methylamphetamine powder;
 - 40 x MDMA orange triangular pills;
 - 25 x endep tablets;
 - 10 x seroquel tablets;
 - 56 x Xanax tablets
 - 4 x Ritalin tablets;
 - 8 x dexamphetamine tablets;
 - 1 x cannabis seed; and
 - 7 grams of cannabis hash.

Police also located a purpose built hydroponic tent containing timer-controlled lights, an extraction fan and four cannabis plants inside a small shed to the rear of the house. The defendant provided his black Samsung Smart Phone to police. A preliminary examination revealed an extensive number message threads relating to the sale of cannabis and other drugs. The defendant sent and received messages on the platforms Messenger and Snapchat. Messages on this phone relating to the sale of various drugs dated back to 2 March 2021.

A note on the phone titled "Debts" was created on 11 June 2021 and last modified on 1 May 2022. The body of the note contained a list of 69 separate names, each of which had a dollar sign next to it and some of which contain an amount ranging from \$10 to \$610. It is asserted that this was used by the defendant to keep track of how much money people owed him for his drug sales. In messages the defendant refers to this as "tick". Another "note" created on 28 March 2022 and last modified on 2 April 2022, spoke of "Tonight's delivery" of cocaine.

The State asserts that for a two year period between 26 May 2020 and 26 May 2022, the defendant was involved in a business of trafficking in six separate drugs, which operated on a continuous and regular basis. He was purchasing larger quantities of cannabis, cocaine and MDMA and on-selling these drugs to his customers in smaller quantities for profit. Based on the content of the defendant's phone messages, he was most likely selling cannabis in small quantities, and did not sell ounce bags very often. Liability for trafficking is alleged on a *Giretti* basis.

The business operated in the greater Hobart area but on some occasions, the defendant travelled to Launceston and Devonport to deliver and sell cannabis to his customers. During the period of the indictment, the defendant sold drugs multiple times per week to at least 100 customers relating to cannabis and an unknown number of customers relating to other drugs.

The State are unable to accurately quantify the financial benefit to the defendant of his trafficking business. However, the defendant was found in possession of 84 ounces (2.37 kilograms) of cannabis and depending on how it was sold, the defendant's potential income from the sale of this amount would be between \$21,000 and \$338,570. In relation to the 13.5 grams of cocaine found in the defendant's possession, the potential street value was \$4,050.

The defendant, as noted, was 23 at the time of these offences. He was previously working for a Hobart-based security company but as a result of these charges, his security licence was suspended almost immediately. That left him without work for the first time since he left school in year 12.

The defendant has two prior convictions for minor drug offences but they do not involve the sale of drugs to other people.

He first started using cannabis when he dropped out of school in around 2017. For around three years that he engaged in cannabis smoking completely recreationally, that was until 2020, around the time of the COVID-19 pandemic when his boredom resulted in a significant increase in cannabis use to the extent that at his worst, he was smoking a quarter of an ounce a day himself. He quickly found himself spending a significant portion of his disposable income on marijuana and that's what prompted him to start purchasing marijuana in bulk so that he could reduce his own cost whilst he was smoking.

Initially, this started off as buying larger amounts and just selling them to friends but as a result of a variety of things, his own smoking habits, as well as his inability to earn a wage in his job during Covid, he found himself selling marijuana not just to his friends, but also friends of friends. All of the defendant's customers, I am told, were people that he either knew or people that knew people that he was selling to.

I have been provided with a report from the Holyoake drug and alcohol rehabilitation. The report is brief but it states that he attended the service beginning on 21 September 2022 in respect of his drug use. The report notes that he engaged very positively with counselling and showed good insight into the harms associated with his use of illicit substances and his involvement in the drug trade.

The report notes that the defendant expressed regret for his decisions and that he genuinely wished to take his life in a different direction. He remained engaged with Holyoake for six sessions until the 15 February 2023. The report notes that he is no longer recommended for that service because he is no longer using illicit substances. That remains the case.

In relation to the firearms offences, the State does not dispute the reasons that he gave in his police interview for his possession of the firearms. He described them as stupid. He knew someone who was selling them at the time. He did not understand where they had come from and did not understand the legalities of having a shortened firearm, but he accepts that it was obviously a stupid thing for him to purchase. He did not use the firearms for anything other than, he instructs his counsel, on a farm to shoot some cans.

As to the drug offending, the State submits that it involved an ongoing course of conduct over the course of two years and that it is serious in nature, as evidenced by a number of features, including the period of time, the range of the drugs that were sold by the defendant and the potential amount of money that he would have received from those drugs. The State notes that he appears to have been operating a business. He had advertising stickers and his primary motive appears to have been the generation of a profit.

Pursuant to s 38 of the *Misuse of Drugs Act* 2001, I order the forfeiture of the following items contained on the Property Seizure Record:

- 1, 3, 5, 21, 21b, 21c, 22–25, 26a, 28, 28a, 29, 30, 32, 35, 38, 40–43, 45, 49, 52–52c, 57, 59, 59b, 59b(i), 59(b)(a), 61, 65, 67, 68 and 70–73.

Pursuant to s 65(1)(a) of the *Sentencing Act* 1997, I make a restitution order to be made in respect of the Lanbar 12-gauge double barrel shotgun and the Boito 12-gauge double barrel shotgun in favour of Meadowbanks Vineyard, and I order the forfeiture of the Brno firearm to the State.

Under s 11(1)(a) of the *Crime (Confiscation of Profits) Act* 1993, I make an order pursuant to s 16 of that Act that the \$7,280.00 seized by police from the defendant on 26 May 2022 be forfeited to the State as it is tainted property, being the proceeds of drug sales.

Pursuant to s 36B(2) of the *Misuse of Drugs Act* 2001, I make an order that the defendant pay the costs of analysis of the drugs seized on 26 May 2022, that being \$1,182.00.

While I accept the State's sentencing submissions, I am persuaded that the defendant's age at the time of the offending and his self motivated rehabilitation render it appropriate to make a home detention order.

The defendant is convicted of each of the crimes and summary offences to which he has pleaded guilty and I impose a single sentence of 18 months' home detention. The order is to contain all of the core conditions contained in s 42AD (1) of Part 5A of the *Sentencing Act* 1997.

With specific consideration to s 42AD (1)(g) and (h), the following conditions are to be added to the Order:

- you must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device;
- during the period that you are required to submit to electronic monitoring:
 - you must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
 - you must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
 - you must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, including in relation to the installation, attachment or operation of a device, or a system, used for the purposes of electronic monitoring by:
 - (i) a police officer;
 - (ii) a probation officer or prescribed officer; or
 - (iii) another person whose functions involve the installation or operation of a device, or a system, used for the purposes of electronic monitoring

The following conditions will also be added to the Order:

- you must, during the operational period of the order, remain at [address provided] at all times unless approved by a probation officer;
- you must attend the Community Corrections office at 1/75 Liverpool Street, Hobart for induction onto this order no later than 10:00 am on Monday, 16 December 2024;
- you must, during the operational period of the order, maintain in operating condition, an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times;
- you must submit to the supervision of a Community Corrections officer as required by that officer;
- you must not, during the operational period of the order, take any illicit or prohibited substances. Illicit and prohibited substances include:
 - (i) any controlled drug as defined by the *Misuse of Drugs Act* 2001
 - (ii) any medication containing an Opiate, Benzodiazepine, Bupropion, Hydrochloride or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication; and

- you must not, during the operational period of the order, consume alcohol, and you must, if directed to do so by a police officer or Community Corrections officer, submit to a breath test, urine test, or other test, for the presence of alcohol.