

Dylan Patmore, the defendant, has pleaded guilty to one count of trafficking in a controlled substance in that he, with two others being his mother and his girlfriend, on or about 24 May 2023 trafficked in controlled substances namely methylamphetamine and MDMA. The offending came to light following the execution of a drug related search warrant at an address in Claremont. A mobile phone was seized, a preliminary inspection of which revealed messages sent and received that day indicative of drug trafficking. There were messages between the owner of the phone, "M", and an obscure username, which police believed to be that used by the defendant, suggested a delivery to the Claremont address by the defendant's mother after she had been to the "stash house". On the same day, 24 May 2023, Kaylene Howlett, the defendant's mother, left her home in Pontville and drove to a house in Gagebrook, the home of the defendant's girlfriend, who I will call "R". She then drove to the Claremont address where she was stopped by police. A search uncovered two snap lock bags each containing 22.6 grams of methylamphetamine and the other 5.0 grams. Ms Howlett was arrested and interviewed. She admitted collecting and delivering drugs on other occasions for a person she named. She said her son, the defendant, and R were involved. She said she does not get paid but has a bit of petrol put in her car and her son gives her money to put into her account, but she then transfers it to his TAB account. On this occasion she did not know what the packages actually were or their value; she had received a photo from R showing pot plants so she knew where to find them at her house. A search warrant was then executed at R's home. Police found a backpack containing 12 snap lock bags each containing one ounce amount of methylamphetamine, with a total weight of 334.4 grams. The DNA profile taken from one of the bags was later matched to the defendant. Police also found two snap lock bags containing MDMA and with the defendant's DNA and fingerprints later being detected. The total weight of that drug was 273 grams. In addition, there was a snap lock bag containing 50.3 grams of white powder which contained methylamphetamine and cocaine. Also found and seized was \$1,875 in cash and a number of unused snap lock bags. The total amount of methylamphetamine was 384.7 grams, or 15 times the trafficable quantity. R was interviewed and implicated the defendant, saying that she did not know that the drugs were at the house, that they must be the defendant's and that she felt betrayed, although she admitted she knew a bit about what was going on. The backpack in her room had been there for a few days since the defendant had stayed. On the same day, 24 May 2023, police searched the defendant's home at Pontville. Various drugs and drug paraphernalia were found. Relevantly, there was a snap lock bag with 1.7 grams of white powder which contained methylamphetamine and cocaine, and a bag containing 1.5 grams of methylamphetamine in the glove box of a motor vehicle registered to Ms Howlett. Various small quantities of cannabis were found with a snap lock bag containing an amount of methylamphetamine in the defendant's room along with \$1,970 cash in a drawer under his bed. The defendant was arrested and interviewed. He agreed that he lived at the Pontville address. He admitted that what was found at R's address was his and that R is his girlfriend. He would not comment as to whether the methylamphetamine found with his mother was his.

The State asserts that Ms Howlett is criminally responsible on the basis that she transported the illicit drugs on 24 May 2023 in the belief that another person intended to sell them, namely the defendant to M and/or M to other people. She pleaded guilty in this Court to trafficking in a controlled substance on that basis; that is, the allegation was confined to one particular instance of possession of methylamphetamine, that being the time on 24 May 2023 when, at the request of the defendant, she drove from her home to R's home, collected two snap lock bags of methylamphetamine with a total weight of 27.6 grams, concealed them beside the driver's side

of the vehicle and left intending to take them to a house in Claremont. She was aged 61 at the time of sentence. The sentence was one of imprisonment for four months wholly suspended for 18 months on conditions. R is said to be criminally responsible on the basis that she guarded and concealed the drugs Ms Howlett collected, and the ones located at her house on 24 May, in the belief that another person intended to sell them, namely the defendant. As to this defendant, the State assert that he is criminally responsible on the basis that on 24 May 2023, he controlled and directed the activities of Ms Howlett, his mother, and R, his girlfriend.

As to the drugs found in Ms Howlett's vehicle, if the 27.6 grams of methylamphetamine was sold by the point for \$100, the potential yield was \$27,600. If sold by the ounce the potential return is \$7,250. As to the drugs found at R's home, if the 384.7 grams of methylamphetamine was sold by the point, the potential yield is \$384,700, and if sold by the ounce the potential return is about \$99,600. If the 273 grams of MDMA was sold in tablet form – 0.3 grams per tablet for \$25 a tablet – the potential yield is \$22,750. That is a total range of between about \$129,600 and \$435,000

The defendant is now 27 years old. He has relevant prior convictions. On 15 January 2020 he was convicted of selling a controlled drug (MDMA) as a minor offence, selling and possessing a controlled plant or its products, possessing a controlled drug namely MDMA, using a controlled drug (MDMA) and possessing a thing used for the administration of a controlled drug. He was made the subject of a community correction order with a condition that he perform 200 hours of community service. I was told that since this offending, he and R have had a child but they are now separated while maintaining contact. However, until recently the defendant provided support for his family by working two days a week in a gardening business and one day a week in a café. I was told that he left school after grade 11 and has worked in various occupations since then. I was told, without dissent, that the previous recorded offending and the offending on this occasion came about because of what seems to be an entrenched problem with substance abuse, and the inevitable connection with pro-criminal associates. At the time of this offending he was using methylamphetamine as well as cannabis, cocaine and MDMA. Counsel put that the cost of maintaining that habit was significantly more than he could ever possibly earn through the employment he then had. A home detention assessment report records his report that his decision-making was skewed by daily drug use; being unable to think straight. Counsel further put that this arrest and charge has been "very much a wakeup call for him in terms of the seriousness of what he was getting himself involved in", and that since 24 May 2023 he has been able to achieve total abstinence. He has broken contact with his former drug involved acquaintances. The home detention assessment report confirms his motivation to engage in drug intervention programs to minimise the risk of relapse. I take into account the defendant's plea of guilty. I was told that he was remorseful but in any event the plea has utilitarian value and some discounting follows. It appears the plea was not entered at an earlier stage because of concern as to what that might mean for the other two charged.

It is correct, as counsel for the defendant submitted, that the defendant is to be sentenced for his criminal activity on 24 May 2023. That criminality involved controlling and directing the activities of his mother and R, and that in turn encompasses their possession and movement of the total amount of the drugs found on that day. Counsel conceded that he could not put that this was an isolated event. Accordingly, no leniency can be extended on that count. It is a primary consideration that a very considerable quantity of drugs was involved on this day over which the defendant purported to exercise control. It seems to me that the defendant was not on the lowest rung of distribution but it was not asserted, and I cannot be satisfied, that he was involved at a high level of management of the illegal operation. The defendant's activity was

for his own benefit, and in the absence of any issue raised, I accept that the benefit was really to fund his addiction, and I take into account that it was not done for simple profit as such. I might observe that it can rightly be said, as Pearce J said when sentencing Ms Howlett, that this defendant asked others to take a risk of detection that he was not prepared to take himself. This Court has stressed many times that commercial dealings in drugs, particularly methylamphetamine, normally attract harsh punishment. Methylamphetamine is a very damaging and harmful drug in the community in several different ways. It is of course a very damaging drug in its effects and its use can lead to crimes of violence and dishonesty. Deterring others from commercial dealings and condemning such activity are important considerations. Notwithstanding the considerable quantity of drugs involved in the activity on this day, I am persuaded that emphasis should be put on Mr Patmore's rehabilitation given the attempts he has made so far and his intention to continue with those efforts.

Mr Patmore, I have set out the facts, your personal circumstances and what I see to be the relevant considerations. I stress that this sort of crime is very serious one given the general impact on the community. In your case, as I have said, given your efforts at rehabilitation and prospects in that respect, I am prepared to take a course which may err on the side of leniency and one which avoids you immediately serving any time in actual prison. That may eventuate if you breach the orders I am about to make. You are convicted of the crime. Subject to your consent, I propose to make a home detention order. I also propose to make a community corrections order with conditions as to community service. I will outline those orders. The period I direct to be the operational period of the home detention order is 15 months to commence on 24 February 2025. The statutory core conditions of that order are contained in s 42AD(1) of the *Sentencing Act*. They will include electronic monitoring under paragraph (g), and accordingly subss (1)(h) and (5) apply. All conditions will be set out in writing for you. I specify the home detention premises as [address]. As a condition of the order, you must attend Community Corrections at 75 Liverpool St, Hobart by 10am Monday 24 February for induction. I make further special conditions that apply to the operational period of the order. They are:

- 1 Unless previously approved by a probation officer for any purpose, you must remain at the home detention premises except between 10.00 am to 3.00 pm on Mondays, Tuesday, Thursdays and Sundays solely for the purposes of attending drug related psychiatric and counselling programs as later referred to in these conditions, and exercising access to your child as arranged with the child's mother.
- 2 You must submit to the supervision of a probation officer as required by that officer.
- 3 You must not consume alcohol and must, when directed to do so by a police officer, probation officer or prescribed officer, submit to a breath test, urine test, or other test, for the presence of alcohol;
- 4 You must not:
 - (a) take any controlled drugs or substances within the meaning of the *Misuse of Drugs Act 2001*;
 - (b) take any medication containing an opiate, benzodiazepine, bupropion or pseudoephedrine without such medication having been prescribed or recommended in writing by a pharmacist, and you must on request provide written evidence of such prescription or recommendation;
- 5 You must, when directed to do so by a police officer, probation officer or prescribed officer, submit to a breath test, urine test, or other test, for the presence of such drugs or medication;

- 6 You must maintain in operating condition an active mobile phone service, provide the details of that to a probation officer or prescribed officer, and be always accessible for phone contact.
- 7 You must participate in psychological or counselling programs relating to drug use, and addiction, and drug relapse and prevention as may be directed by a probation officer.
- 8 Unless previously approved by a probation officer you must not enter any licensed premises not being a café, theatre or bowling alley.

The community correction order will be for a period of 18 months and contain a condition that you satisfactorily perform community service for a period of 140 hours. Reporting as required by the *Sentencing Act* for the purposes of that order will be the same reporting for home detention induction; that is by 10am on Monday morning. [The defendant consented to the making of the order.] I make the home detention order and the community correction order in those terms. I order that you pay the cost of drug analysis in the sum of \$7,683. Pursuant to s 38 of the *Misuse of Drugs Act* and ss 11 and 16 of the *Crime (Confiscation of Profits) Act* I order the forfeiture of all the items, including the amounts of cash, listed in paragraph 28 of the Crown Statement of Facts filed on 16 August 2024