

Mr Moore, has pleaded guilty to an indictable offence of trafficking in a controlled substance, contrary to s 12(1) of the *Misuse of Drugs Act* 2001. The particulars of the offending are that he, between on or about 6 September 2022 and 3 February 2023, trafficked in controlled substances, being cocaine, methylamphetamine (Ice), MDMA and ketamine. Pursuant to s 385A of the *Criminal Code*, the Court also has before it three summary charges, each of to which Mr Moore has pleaded guilty. Two of them are drug related. The first is an offence under s 23 of the Act in that Mr Moore possessed a thing, namely four metal straws, used or designed to use in connection with the taking of illicit drugs, the second was a charge of using an illicit drug or drugs in breach of s 24 of the Act. The remaining summary charge, to which there was also a guilty plea, was a charge under s 74(b) of the *Classification (Publication Films and Video Games) Act* 1995. The particulars of the charge are that at Launceston on 3 February 2023, Mr Moore possessed a bestiality product, namely a video, depicting a trout being placed into a human vagina. The later charge is totally out of character with the other offending. Mr Moore's explanation is that his brother-in-law sent him the video on his mobile phone. Mr Moore believed he had deleted it, but it was still on his phone when the phone was examined by police in connection with the drug related activity.

The Court convicts Mr Moore on all of the above charges. It will impose a global sentence dealing with all the charges to which Mr Moore has pleaded guilty.

The principle offending that brings Mr Moore before the Court, is his trafficking in illicit drugs, in a sophisticated operation, from September 2022 until February 2023, namely cocaine, Ice, MDMA and ketamine. The offending is particularly serious and would, in an ordinary course, call for a custodial sentence to accurately reflect the principle of general deterrence, as well as the importance of condemnation of an illicit trade, which destroys the lives of many people in the State. However, the unique facts and circumstances of this matter call for an individualised approach to sentencing, and the invocation of the concept of mercy.

Mr Moore is 29 years of age, at the time of the offending he was in his mid-20's. He was a relatively youthful offender, with no relevant prior convictions. Mr Moore became quadriplegic in 2018 at the age of 22, after a horrific diving accident, which almost killed him. He has subsequently suffered physical and mental challenges as a result of the accident, and is confined to a wheelchair. In 2021, he started to use illicit drugs as a way of self-medicating to try to overcome his troubled state of mind. He also found that it was something he could engage in socially when there was little he could engage in socially. Unfortunately, Mr Moore's illicit drug use escalated to a point where he considered that he needed to sell illicit drugs in order to finance his habit. Most unfortunately, the habit became deeper as did the nature of his drug trafficking.

Since being apprehended by police, Mr Moore has ceased the use of illicit drugs and ceased selling illicit drugs. Since being arrested, he has turned his life around in ways that would have been unimaginable to him at the time of his arrest. Since May 2024, he has been living in Queensland where he has had the benefit of supported disability residential accommodation, which is greatly assisting his efforts to rehabilitate himself physically and mentally. It is in society's interest, and his best interests, that he continue to be supported in that way and assist in his rehabilitation. Incarceration in Tasmania may see him reconnect with undesirable people from the past. It will also prove especially burdensome for him, given his special needs.

As well as being in supported accommodation in Queensland, Mr Moore is a potential candidate for a stem-cell project, which may have excellent outcomes for him physically in the future.

The Court has before it, outstanding references provided for Mr Moore by people in Queensland, with whom he has come into contact within that State. In particular, it is noteworthy that Mr Moore is performing voluntary work, assisting troubled youths as a role model. He is also working with the CEO of Men of Business, who work with young at risk men, fostering deep care and kindness and respect and belonging. In a real sense, Mr Moore has turned his life around and is making life better for others with whom he interacts.

Mr Moore is genuinely remorseful for the offending into which he spiralled as a result of his use of illicit drugs. He is not the person he was when he started using illicit drugs, and started his drug trafficking enterprise. It would be counter productive to incarcerate Mr Moore immediately given his remorse, his lack of relevant prior convictions and his full co-operation with the police and the matters referred to above. The Court considers that an individualised approach to sentencing is appropriate. It will also be a sentence that reflects the gravity of the offending, chiefly, the indictable offence, in that it will put Mr Moore at risk of incarceration in the future should he commit any offence punishable by imprisonment in the relevant period.

In all the circumstances, the Court imposes a global sentence of two years' imprisonment, fully suspended for a period of 24 months on the condition that Mr Moore not commit any offence punishable by imprisonment in that time.

The Court, without opposition by counsel for Mr Moore, makes the following orders in addition:

- (i) Under s 30B of the Act, the cost of drug analysis performed by the State, in the sum of \$13,186.00, must be paid to the State by Mr Moore;
- (ii) Under s 38 of the Act, the property recorded in Property Seizure Record Receipt number 198065 be forfeited to the State. That is, items numbered 1, 4, 5, 8, 10, 12, 13, 14, 16, 17, and 18.
- (iii) Under s 16 of the *Crimes (Confiscation of Profits) Act* 1993, the Court orders that the \$28,500 seized by police on 3 February 2023, be forfeited to the State on the basis that it is the proceeds of the sale of illicit drugs, thereby being tainted property.