

**STATE OF TASMANIA v KATIE JANE SHEARING
and MELINDA KATE LUCAS
COMMENTS ON PASSING SENTENCE**

10 MAY 2021

BLOW CJ

Ms Shearing has pleaded guilty to two charges of trafficking in controlled substances, namely methylamphetamine and cocaine, as well as a summary offence of using methylamphetamine. Ms Lucas has pleaded guilty to seven charges of trafficking in controlled substances on a separate indictment – six charges relating to methylamphetamine and one relating to cocaine – as well as two summary offences – using methylamphetamine, and having possession of a syringe and needle used in connection with the administration of a controlled drug. I am dealing with the summary charges under s 385A of the *Criminal Code*.

Ms Shearing and Ms Lucas travelled from Melbourne to Devonport on the Spirit of Tasmania on 18 December 2019. When they arrived they were intercepted by police officers and searched. Between them they were carrying a total of 547.4 grams of methylamphetamine, with a street value of at least \$270,000. Ms Lucas was also carrying 83 grams of cocaine, with a street value of over \$40,000, wrapped in condoms in her vagina. The methylamphetamine was in 10 separate packages of approximately equal weight. Ms Shearing had two of them in her bra and two in her underwear. Ms Lucas had the other six in her bra. She also had 5.83 grams of the substance in a chewing gum tin, apparently for her personal use. Two small snap lock bags containing 0.79 grams of the substance had been left behind in the women's cabin.

Ms Shearing and Ms Lucas were each interviewed by police officers. Each made admissions as to what they had been doing. They flew from Tasmania together on 17 December 2019, the day before their interception. They went to Melbourne to collect the drugs and return to Tasmania with them. They collected the drugs and brought them into Tasmania at the request of members of an organisation that I need not name. They acted as couriers, importing the drugs into Tasmania in the belief that senior members of that organisation would arrange for the drugs to be sold.

Ms Shearing told police officers that she had used methylamphetamine in Hobart on 17 December 2019. Ms Lucas made a similar admission. Police officers located a syringe when they searched her. The summary charges relate to those admissions and that syringe.

Ms Lucas took part in a further interview with police officers in July 2020. She admitted that she had brought quantities of methylamphetamine from Melbourne to Tasmania on five earlier occasions in similar circumstances during the period from 8 April 2019 to 8 October 2019. The first five charges on her indictment relate to those importations. She said that she brought back half a pound of Ice each time. The total street value of the methylamphetamine imported on those five occasions would have been at least \$560,000.

Ms Shearing was 26 years old when she was arrested. She is now 28 and about 12 weeks pregnant. She has a lot of relatively minor convictions, beginning when she was 14 years old. She has been sentenced to imprisonment only once, and only for a few months, for offences including motor vehicle stealing, dangerous driving, and evading police, committed when she was 18 years old. However she was sentenced to 10 months' youth justice detention when she was 14, received four wholly suspended sentences of detention as a youth, and received a wholly suspended sentence of imprisonment when she was 19. She has no significant convictions for drug offences. On 5 December 2019, only 13 days before her arrest, a magistrate convicted her on 19 summary charges and adjourned the proceedings for 12 months

on her giving an undertaking to be of good behaviour during that period. She breached that undertaking by bringing hundreds of thousands of dollars worth of Ice into Tasmania. Breach proceedings can only be dealt with in the Magistrates Court but, for the purpose of sentencing on the trafficking charge, it counts against her that her crime put her in breach of her undertaking, especially since the undertaking had been given so recently.

Ms Shearing has a very unfortunate background. As a child she lived in a household where domestic violence and alcohol abuse were very common. She commenced drinking alcohol regularly when she was 10 years old. She told a probation officer last year that she was only ever sober when she was pregnant. She regularly used illicit drugs from the age of 12. At that age she started living on the streets. By the time she was 21 she was using as much methylamphetamine as she could get. Over the years she used a variety of drugs, including heroin at a time when she was living in Sydney. She had a hepatitis C infection when she was about 14 years old.

At her counsel's request, I obtained a drug treatment order assessment report in relation to her. The author reported that she was eligible for diversion for treatment by the Court Mandated Diversion Program, ("the CMD program") and would be considered suitable provided she was able to arrange suitable accommodation. She has very recently arranged accommodation that is considered suitable.

It is clear from the DTO assessment report that she has made efforts to overcome her longstanding drug and alcohol problems. In 2018 she tried to stop using drugs, went to Holyoake, and commenced a residential program at The Bridge, but left after about two days. She stopped drinking alcohol two to three months ago, and last used methylamphetamine in about mid-March. She told the author of the report that she felt the best she had in a long time. She recognised the negative mental and emotional impact that drug use had on her health and wellbeing. She had counselling sessions from the Salvation Army Bridge Program on three occasions between March 2018 and August 2020.

She has two daughters, aged 8 and 6. They live with her mother. She has been the victim of domestic violence. Her mental health deteriorated in 2016 and she attempted suicide. She has complained of family violence in relation to her most recent partner. She has maintained regular contact with her children.

Ms Shearing has been assessed as requiring a very high level of intervention by the CMD service in the light of her drug, alcohol and mental health problems, as well as a gambling problem. She has led a very unstable life for many years.

Ms Shearing had known Ms Lucas for about a year when Ms Lucas approached her and asked her for her help in transporting the drugs. Ms Shearing was using drugs very heavily, and agreed to participate, thinking only that she was helping out a friend. There was no arrangement for her to receive any money in return. However she had been associating with a lot of men who had the drugs that she wanted, and had been performing sexual and other services as requested by them in return for drugs. She has now stopped seeing those people. After her arrest she co-operated with the police, made full admissions, and pleaded guilty at a very early stage. The Crown was advised in or about last August, once orders were made committing Ms Shearing and Ms Lucas for trial, that they would both be pleading guilty.

This is a very serious charge because of the value of the drugs, and the harm that drugs do. If Ms Shearing had been involved in more than one importation, I would have considered her case too serious for a drug treatment order. But, in all the circumstances, I think it is desirable that she be given an opportunity to rehabilitate herself, and I am therefore going to make a drug treatment order in relation to her.

Ms Lucas was 42 years old when she was arrested and she is now 43. She has been a drug user since she was 20. She has a lot of convictions for driving and dishonesty offences, commencing when she was 26. She has never been to prison. In 2007 a magistrate gave her a wholly suspended sentence of six months' imprisonment and ordered her to perform 140 hours' community service in relation to some dishonesty offences. In 2017 I gave her a wholly suspended sentence of three months' imprisonment when she pleaded guilty to trafficking in cannabis and a number of less serious charges. She has five convictions for driving with an illicit drug in her blood, four of which pre-date the current charges.

Ms Lucas lives with her mother and stepfather. She has three adult children and one grandchild. A probation officer has provided a pre-sentence report in relation to her. It appears that she has severed ties with her former companions, and wants to go to live with a relative in Queensland when she can. That relative is reportedly able to arrange employment for her. She has been abstaining from drugs and is on a waiting list to participate in the EQUIPS Addiction Program.

In late 2018 Ms Lucas commenced a relationship with a man who was associated with the organisation that I have mentioned. He and she were both using drugs heavily. He owed a substantial debt to members of the organisation. He committed suicide. Ms Lucas was informed that her late partner's debt had become her responsibility. She feared for her safety. She borrowed from family members and friends and paid off the sum that she understood to have been owing. She was then told that interest had been added, and that she would have to pay that interest, but that she could clear the remaining debt by providing assistance. She went on the first trip to Melbourne to provide that assistance, without being told anything about the purpose of the trip. She learned what she had to do once she reached Melbourne. At one stage she said that she was going to stop acting as a courier. Threats were made. She was sent a text message with an image of her daughter's home. The message was to the effect of "It won't take us long to go in and kill her." As a result Ms Lucas continued to work as an unpaid courier until she was arrested.

At the time of her arrest she co-operated with the police and made only limited admissions. At that stage she did not provide information about the involvement of others, but she provided significant information to the authorities last July, even though there was a risk to her safety and the safety of her family.

Five people have subsequently been arrested in relation to the trafficking activities that Ms Lucas was involved in. Ms Lucas is willing to co-operate with the authorities in relation to court proceedings against those people. As a result, she is entitled to a substantial sentencing discount.

Ice is a drug that ruins people's lives and results in all sorts of social evils. Users incur debts that they have no hope of paying and resort to crime or sometimes, as this case illustrates, to suicide. Because of the scale of the trafficking operation and the duration of Ms Lucas' involvement in it, the only appropriate sentence for her is a substantial sentence of imprisonment. I acknowledge the mitigating factors, particularly her fear, her co-operation and

her plea of guilty. Solely because of her promise to provide assistance in relation to future proceedings, I will impose a head sentence about 30% lower than I would otherwise have imposed. Because of all the various mitigating factors, I will impose the shortest possible non-parole period.

Katie Jane Shearing, I convict you and make a drug treatment order. As the custodial part of the drug treatment order, I sentence you to two years' imprisonment. You will not be required to serve any part of that sentence unless you are ordered by a court to do so as a result of you not complying with the conditions of the order that I am now imposing.

The core conditions of the order are as follows:

- (a) You must not, in Tasmania or elsewhere, commit another imprisonable offence.
- (b) You must attend a court whenever the court directs.
- (c) You must report to a court diversion officer at the office of Community Corrections in Hobart within two clear working days after today.
- (d) You must undergo such treatment for your illicit drug use problem as is specified in this order or from time to time specified by a court.
- (e) You must report to, and accept visits from, your case manager or court diversion officers.
- (f) You must, unless there are special circumstances, give your case manager at least two clear working days' notice before any change of address.
- (g) You must not leave Tasmania except with the permission, granted either generally or in a particular case, of a court.
- (h) You must comply with all lawful directions of a court.
- (i) You must comply with all reasonable directions of your case manager and court diversion officers concerning the core conditions and program conditions of this order.

I impose the following program conditions as part of the order:

- (i) You must not associate with any individual determined by a CMD officer as being an inappropriate contact.
- (ii) You must be contactable by telephone at all times, and must inform your court diversion officer within 24 hours about any changes to your contact details.
- (iii) You must not consume alcohol, and must submit to breath testing as directed by a court diversion officer or a police officer.
- (iv) You must not use, or associate with anyone who uses, illicit or other drugs, synthetic drugs, unidentified drugs, or mind or mood altering drugs without the written permission of a court diversion officer.

- (v) You must not use any prescription medication without approval from a general practitioner or a court diversion officer, and must only take prescription medication in accordance with their directions.
- (vi) You must obey all directions of your court diversion officer or any other CMD case worker, including directions with respect to attending case management appointments, counselling sessions, urinalysis, and any other appointment or assessment required for the program.
- (vii) You may only reside at an address approved by a CMD officer.
- (viii) You may not be absent from your approved residential address between the hours of 9pm and 7am, and between those hours you must present yourself to a police officer there when required to do so unless you have prior approval from your court diversion officer to be absent.
- (ix) You must not enter any licensed premises where there are poker machines or other gambling services and facilities.

Your compliance with this order will be supervised by a magistrate. I direct you to attend the Magistrates Court in Hobart on 24 May 2021 at 10.30am.

I note that you have been told that you are to report to Highfield House tomorrow at 10.30am for the purpose of this order.

Melinda Kate Lucas, I convict you and sentence you to three years ten months' imprisonment with effect from 22 April 2021. You will not be eligible for parole until you have served 23 months of this sentence.

Counsel for the State has asked that I order the payment of costs of analysis amounting to \$1,969. Because there are two separate indictments, I will order each accused to pay half that amount. In relation to each accused, I order that she pay \$984.50 as the costs of analysis pursuant to s 36B of the *Misuse of Drugs Act* 2001.