

STATE OF TASMANIA v NICOLA CHERRY
COMMENTS ON PASSING SENTENCE

13 AUGUST 2025
BRETT J

Ms Cherry, you have pleaded guilty to one count of trafficking in methylamphetamine and one count of dealing with the proceeds of crime. You have also pleaded guilty to the associated summary offences of possessing a smoking device, possessing controlled drugs and using methylamphetamine.

The trafficking relates to your conduct of a drug selling business between 14 September and 2 October 2024. During this period, you trafficked in methylamphetamine on a continuous and regular basis. It is impossible to say how much of the drug you sold during the relevant period, but extracts of communications taken from your phone in which you negotiate sales of methylamphetamine, including arrangements for credit, refer to quantities ranging from 0.1 gram to several grams of the drug. Further, when you were arrested by police on 2 October 2024, you were in possession of \$1,350 in cash and 32.33 grams of methylamphetamine. The cash is the subject of the proceeds of crime charge, and the methylamphetamine in your possession had an estimated street value of approximately \$22,000. This is not indicative of the total trafficking but it does indicate that you were dealing in quantities which were significant. Police also found in your possession some other drug paraphernalia, and diazepam and buprenorphine in quantities consistent with personal use.

In December 2024, you were convicted of various offences which included a minor offence of trafficking in methylamphetamine. This trafficking related to the period between 25 June and 6 August 2024. I am told that although it was a minor offence, the trafficking was significant and over that short period involved methylamphetamine of an aggregate value in excess of \$100,000. You were sentenced for this and other offences to a drug treatment order with a custodial period of five months and six days, as well as a further term of imprisonment of four weeks. The drug treatment order was cancelled only 2 months later, and you were resentenced to an effective term of imprisonment equivalent to the custodial period of the order that is five months and six days. You completed serving this sentence as I understand it a few days ago.

This history is somewhat unusual and you will not, of course, be punished by me for the trafficking activity which was the subject of that sentence. However, the history does say something about the level of trafficking activity in which you were involved over the whole period of the two crimes and confirms that the crime with which I am dealing was not an isolated event. It is certainly true that you had not when you committed this crime been punished for the earlier crime, but you had been arrested and bailed for that crime on 6 August 2024. Your decision to continue trafficking after that was in breach of your bail obligations and by any standards represents a brazen defiance of the law.

You are still relatively young. You were 23 when you committed this crime and are now 24 years of age. You were first introduced to methylamphetamine when you were 17 and after a period of abstinence returned to its use at the age of 20, under the influence of a partner who was a significant drug user. You were also the victim of family violence. I am told that this trafficking activity was undertaken by you as a means of obtaining methylamphetamine to support your habit. You were not profiting commercially otherwise. You have two children aged three and one. They are being cared for by your sister while you are in prison. It is claimed on your behalf that upon your release from prison, your goal is to avoid illegal drugs and work towards

reunification with your children. I am told that you have been working hard in prison and have participated in a number of courses designed to promote and support your rehabilitation.

The crime you committed is an extremely serious one. As I am sure you appreciate, methylamphetamine is a highly addictive and damaging drug. Trafficking businesses such as yours facilitate its distribution throughout the Tasmanian community. This is harmful to the community and deserves the denunciation of the courts. Those who conduct such activity must expect severe punishment. Having said that, I accept that there is some mitigation arising from the fact that you were doing this to support your own drug habit. You pleaded guilty at a relatively early time and there is some indication that you have developed insight into your problem and are committed to rehabilitation. The sentencing aims in this case include both general deterrence and promotion of your rehabilitation. The sentence must strike an appropriate balance between these aims.

I have determined that the appropriate sentence is a partially suspended term of imprisonment. In determining the head sentence and the extent to which it should be suspended, I will take into account the need to promote your rehabilitation and the principles of totality.

The orders I make are as follows:

- a You are convicted of the crimes and the offences to which you have pleaded guilty;
- b For the crimes of trafficking and dealing with the proceeds of crime, and counts three and six on complaint 35382/24, you are sentenced to a global term of 18 months imprisonment, which will be backdated to the 8 August 2025. The final 12 months of the sentence will be suspended for a period of 18 months on the following conditions:
 - i that you are not to commit another offence punishable by imprisonment during that period.
 - ii that you will be subject to the supervision of a probation officer. You must comply with this condition for a period of 18 months imprisonment which will be backdated to 8 August 2025. The final 12 months of the sentence will be suspended for a period of 18 months on the following conditions.
 - i. You are not to commit another offence punishable by imprisonment during that period.
 - ii. You will be subject to the supervision of a probation officer. You must comply with this condition for a period of 18 months. That period will commence from when you lawfully cease to be imprisoned under this sentence. The court notes that the conditions referred to in s 24(5B) of the *Sentencing Act* apply to this condition. These include that you must report to a probation officer within three clear days of the day that you lawfully cease to be imprisoned under the sentence. In addition to the core conditions the order shall also include the following special conditions:
 - (a) you must, during the operational period of the order,

- i attend educational and other programs as directed by the court or a probation officer;
 - ii submit to the supervision of a probation officer as required by the probation officer;
 - iii undergo assessment and treatment for drug dependency as directed by a probation officer;
 - iv submit to testing for drug use as directed by a probation officer;
 - v submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;
 - vi attend, participate in and complete the EQUIPS addiction program as directed
- c You are not eligible for parole in respect of the operative part of the sentence, that is the six month period.
- d On count 2 of the complaint, I impose no further punishment.
- e I am satisfied that the cash in the sum of \$1,350 which was seized by Tasmania Police is tainted property within the meaning of the *Crime (Confiscation of Profits) Act* 1993. Pursuant to s 16 of that Act, I order that the said sum be forfeited to the State of Tasmania.
- f I make the forfeiture orders pursuant to s 38 of the *Misuse of Drugs Act* as sought by the prosecution.