

STATE OF TASMANIA v DAVID McGRATH SMITH
COMMENTS ON PASSING SENTENCE

26 SEPTEMBER 2025
JAGO J

David McGrath Smith, you have pleaded guilty to one count of trafficking in a controlled substance. I am also dealing with related summary charges, being one count of use a controlled drug, namely methylamphetamine; and four counts of possess thing used for administration of a controlled drug.

The trafficking charge relates to a period between 6 September 2021 and 7 December 2022. During this time, you sold methylamphetamine on an on-going and recurring basis to several customers. Your trafficking between 6 September and 1 November 2021, involved assisting another person, Jacum Hope, in his trafficking business, but then from 1 November 2021 you trafficked in methylamphetamine independently from Mr Hope, and essentially took over Mr Hope's customer base.

Your involvement in this trafficking enterprise was discovered when on 1 November 2021, police executed a search warrant at your residence at [address redacted]. You and Mr Hope, together with two other persons, were present. Police located 15 grams of cannabis; 2.6 grams of methylamphetamine; some smoking devices and some digital scales. They also located a tick sheet. You participated in a record of interview that day. You told police that you acted as a middleman; explaining that you would source the methylamphetamine from another person (Mr Hope) and then on-sell it. You told police that you had been doing this for the previous four or five weeks and had arranged approximately \$2,000 worth of methylamphetamine sales. You agreed that sometimes you would receive methylamphetamine in exchange for arranging the sales.

Police also spoke to Mr Hope that same day. They examined a number of mobile phones in his possession. Analysis of those mobile phones disclosed a series of messages between you and Mr Hope, consistent with you assisting him in the sale of methylamphetamine. Bank statements were also obtained from both Mr Hope and you. Those bank statements disclosed approximately 40 transactions between 13 September and 1 November 2021, consistent with you selling methylamphetamine. In total, you had received approximately \$11,000 from methylamphetamine sales. The money did not stay in your account for very long before being transferred elsewhere.

It is noteworthy that on your own admissions, you started assisting Mr Hope fairly early in September 2021. You had only been released from custody, having served a sentence, on 6 September 2021. You must, therefore, have commenced your criminal conduct very soon after your release from gaol.

You were charged and bailed in respect to the trafficking, which had occurred between September and November 2021. Almost immediately, however, you resumed selling methylamphetamine. This resumption in trafficking was discovered when police intercepted a vehicle in which you were a passenger on 23 January 2022. Police located a small quantity of methylamphetamine, a smoking device and a set of digital scales in a backpack which belonged to you. Police also seized your mobile phone. Forensic examination of that phone disclosed a number of messages dated between 5 and 23 January 2022, which were consistent with the sale of methylamphetamine. On 27 January 2022, you participated in a further record of interview with police. You told police people message you about drugs, and you tell them that you will "see what I can do".

On 21 July 2022, police executed a further search warrant at your residence at [address redacted]. They again located drug items, including digital scales, a negligible amount of methylamphetamine and a smoking device. Your phone was seized. You were arrested. You participated in a record of interview. You told police that since coming out of custody in September 2021, you had been selling methylamphetamine two or three times a week. You said that you usually sold it in point form, but since April, had also sold in larger quantities of a half-weight. You agreed that you had sold approximately eight grams over the previous four months. Police again examined your phone and located a number of messages consistent with selling methylamphetamine. Interrogation of your bank statements identified approximately 430 incoming deposits, totalling approximately \$54,000 between 13 September 2021 and 26 July 2022. Such deposits were consistent with methylamphetamine sales. I note this figure includes the \$11,000 that was seen in your account for the period 13 September 2021 to 1 November 2021.

On 26 September 2022, you appeared in the Magistrates Court in respect to the first period of trafficking. You were bailed to re-appear at a subsequent date. On 4 November 2022, police intercepted you in Wynyard. They located a quantity of methylamphetamine on you. On 7 December 2022, police executed a further search warrant at [address redacted]. They located a tick sheet, some snap-lock bags with trace amounts of unidentified powder and a used smoking device. Once again, you were interviewed. You made admissions to selling methylamphetamine. You told police that since 21 July 2022, you had been selling methylamphetamine regularly. You said you sold between \$1,500 and \$2,000 worth of methylamphetamine over that period.

In summary then, based on what you told police, between 1 November 2021 and 7 December 2022, you were regularly selling methylamphetamine. Whilst it is impossible to be precise about the quantity that you sold, examination of your bank account demonstrated that you had received approximately \$43,000 in proceeds from the sale of methylamphetamine during the relevant time. I am satisfied that you were operating a mid-range trafficking business which had regular customers, and it was known within the drug community that you were a supplier of methylamphetamine. I accept that you had a significant drug habit yourself at the time, and some of the methylamphetamine would have been used to support your own habit, but given the quantity sold, I am also satisfied that there was a profit element to your business.

You are 38 years of age. You have a number of relevant prior convictions, which are reflective of a long-term drug addiction. As noted, in June 2021 you were sentenced to a period of six weeks' imprisonment for a number of driving and drug related offences, when a previously imposed suspended sentence was activated. In June 2021, you were also sentenced by this Court for the crimes of possession of stolen firearms and unlawfully trafficking in firearms. You were sentenced to a global term of ten months' imprisonment, the last seven months of which was suspended. You subsequently breached the terms of that suspended sentence by committing further offences and on 9 August 2023, you were sentenced to a total effective period of imprisonment of seven months, commencing 8 December 2022. This sentence ended on 8 June 2023, but you were not immediately released because you did not have bail on this matter. Also on 9 August, the sentencing court sentenced you in respect to some summary offences under the *Misuse of Drugs Act* and some bail offences and some driving offences. You were sentenced to a period of three months' imprisonment, which wholly suspended on condition that for a period of two years, you commit no offence punishable by imprisonment. An 18-month Community Correction order was also imposed. I am told you successfully

completed the Community Correction order, and that the three-month period of suspended imprisonment has now expired seemingly without breach.

It is submitted on your behalf that the last period of imprisonment has had a significant effect upon you, and that since your release on bail on 25 August 2023, you have been very focused on your rehabilitation. Whilst in custody, you completed a certificate in resilience and mindfulness, you participated in a parenting programme, and you held employment roles within the prison. I am told that since your release you have remained drug free, you have committed no further offences, and you have obtained employment. You have moved away from past associates. You are now living with your parents. I have been provided with references from your employers. You are obviously held in high regard. It is submitted that your employment provides you with a positive focus and is of great assistance to you in maintaining abstinence. In essence, it is submitted that you are now a very different person than the person who was involved in this trafficking business, and that although you have made promises of reform in the past, this time you have really committed to it and have achieved it.

It is certainly to your credit that you have made significant changes and are now drug free. There was a considerable delay, however, in you being prepared to accept responsibility for this crime. You pleaded not guilty to the charge in March 2023 in the Magistrates Court. The trial papers were filed in April 2025. Given the substantial admissions you had made, the State decided to file plea papers in August 2025. The State were advised the matter would resolve as a plea of guilty shortly after the plea papers were filed. It is submitted in explanation of the delay that you sought to wait until you received full disclosure before determining the plea to be entered. That is most certainly your right, but it is not indicative of remorse or insight as to wrongdoing. The plea of guilty should be seen, given the strong case based on your own admissions, as something of a bowing to the inevitable, and it carries little mitigatory weight in the sentencing exercise. That said, I accept it retains some utilitarian value because prosecuting a matter of this nature would have had its complexities.

As has been stated by the courts on many occasions, conduct which involves the dissemination of drugs into the community is to be deplored. The simple fact is illicit drugs cause great harm to individuals and to the community at large. They are intimately linked with further crime, often involving dishonesty and violence. Those who choose to engage in the trafficking of illicit drugs must understand that apprehension and conviction will result in harsh penalties. General deterrence is always an important sentencing consideration. In my assessment, your offending undoubtedly warrants imprisonment. The only question is whether it is appropriate that you be given the opportunity to avoid immediately serving all or part of that period of imprisonment and be allowed to continue to focus upon your rehabilitation.

This is very serious, and sadly all too common, offending. A significantly aggravating factor is that you commenced trafficking in methylamphetamine shortly after being released from serving a sentence of imprisonment, and you continued to traffic in methyl amphetamine despite the police searches and despite being on bail for the earlier portion of the offending. That is reflective of the depth of your addiction but is also reflective of an arrogant disregard for the law. The sentence I impose must reflect the gravity of the criminal conduct, denounce and punish that conduct, and make clear to all members of our community that this Court is determined to do what it can, to protect the community from this insidious drug and the enormous harm it causes. Your rehabilitation is important, but it is one of a number of factors that must be balanced in the sentencing exercise. In assessing your sentence, I have regard to parity and the sentence I imposed upon your co-accused, Mr Hope. The criminal conduct of

Mr Hope was, however, less than yours. His criminal record was less than yours. You continued in this trafficking business on your own after 1 November 2021. Therefore, in my assessment, his sentence, whilst relevant as a general consideration, is not directly comparable.

I have determined, after careful consideration, that in order to achieve all sentencing aims, it is necessary that you serve part of the custodial sentence I intend to impose. The balance will be suspended to recognise and encourage your ongoing rehabilitation.

I make the following orders. You are convicted of the crime and offences to which you have pleaded guilty. In respect to the summary matters, I make no further order. For the crime of trafficking, you are sentenced to imprisonment for a period of 21 months, backdated to commence on 3 July 2025. The last twelve months of that period of imprisonment will be suspended on condition that you commit no offence punishable by imprisonment for a period of two years from today's date. I order that you not be eligible for parole until you have served six months of the operative period of imprisonment. I make the forfeiture orders sought at paragraph 25(a) and (b) of the Crown Statement of Facts.

I order the defendant pay a pecuniary penalty in the sum of \$43,000. I am satisfied the defendant received at least that commercial benefit from his criminal conduct.