

STATE OF TASMANIA v SIMON MICHAEL NASIUKIEWICZ 7 FEBRUARY 2020
COMMENTS ON PASSING SENTENCE BLOW CJ

Simon Michael Nasiukiewicz, you have pleaded guilty to trafficking in a controlled substance. The controlled substance was cannabis. I am going to sentence you for that and also for eight related summary offences that you have pleaded guilty to.

You have led an industrious life. You are a family man with a wife and two young children. You were living in Latrobe and doing shift work in Savage River. Your income was good, but the shift arrangements were terrible, and interfered with family life. You decided that you would like to leave your well paid job in the mining industry at Savage River and earn money in one or more other ways. And, unfortunately for you, you set out to grow cannabis as a money-making enterprise. I am told that you only grew six plants. But you happened to acquire some very good seeds, and you happened to be a very talented gardener, and you happened to produce a great deal of cannabis. The police visited your home and searched it on 31 May last year. They found, all up, about 16 kilograms of cannabis. That included a small component of leaf. If you sold that by the pound, you could have got something like \$3,000 per pound. I accept that you would have been willing to take half of that to get rid of your stock, and that you wanted only to deal with associates, users who were known to you, and not with the general cannabis consuming public. However you set out to do this on a commercial scale, and if you do that you have to expect to go to prison.

There is a lot that counts in your favour. You have reached the age of 41 with only minor convictions, and none for drug-related matters. You are not a cannabis user. You have used methylamphetamine, but not become addicted to it, and you are not a drug user. You have an excellent work record. You are highly regarded by your present employer, and by people in the community. You were very co-operative with the police. You took part in an interview and made significant admissions. You gave them the PIN for your mobile phone, which you did not have to do. You told them about your personal use of methylamphetamine, and you did not have to tell them that. They would not have known about it otherwise. You pleaded guilty on your second appearance in the Magistrates Court. And you are no doubt very embarrassed by the situation you find yourself in. In the circumstances, I think I have to impose a prison sentence. but I am going to suspend most of it.

You have pleaded guilty to cultivating cannabis, and having it in your possession at different places at your home, so there are two possession charges. You told the police that you had used methylamphetamine to overcome problems with drowsiness when you were both working at Savage River and growing cannabis. In relation to that you pleaded guilty to possessing and using methylamphetamine. The police found a smoking device for cannabis and a smoking pipe for methylamphetamine, and you have pleaded guilty to possessing both of those. They also found two shotgun cartridges, and you did not have a licence authorising you to have possession of them, so you pleaded guilty to possession of them. All of those minor charges do not make a significant difference to the sentence that I am going to impose, but I take them into account.

As I have said, I think the appropriate course is for me to impose a prison sentence and suspend most of it. I convict you and sentence you to nine months' imprisonment. I suspend seven months of that sentence on condition that you must not commit any offence punishable by imprisonment within 12 months after your release from prison. I order the forfeiture to the State of Tasmania of the two shotgun shells and the items listed in paragraph 10 of the Crown statement of facts.