

Joshua Atkinson, you plead guilty to trafficking in a controlled substance, trafficking in firearms, and two counts of possessing a firearm when subject to a firearms prohibition order. I also agreed to deal with your plea of guilty to two counts of possessing a controlled drug, four counts of breaching an interim family violence order, possessing a firearm for which a licence may not be issued, possessing a silencer, two counts of possessing ammunition without a firearms licence, possessing a smoking device and possessing stolen property.

During the seven week period between 28 April 2023 and 15 June 2023 you operated a business of selling drugs in and around Launceston. I will say more about the nature and scale of the trafficking later in these comments.

You were first arrested on 25 May 2023. The arrest occurred because of unrelated family violence allegations. However you were found in your car outside a hotel in possession of snap lock bags containing 25.2 grams of morphine powder, 6.7 grams of methylamphetamine, 0.3 grams of MDMA and an MDMA tablet and many other empty snap lock bags. You had digital scales which were later shown to have traces of methylamphetamine on the weighing pan. You also had a glass smoking pipe. On that day an interim family violence order was made with conditions forbidding you from possessing firearms. You were released from custody on the following day. You immediately returned to trafficking which continued until you were next arrested about three weeks later on 15 June 2023. That arrest resulted from what was revealed by lawful interception of your phone communications. Late in the afternoon of that day you were found driving your 4WD utility in suburban Launceston. As you were being arrested you attempted to discard a snap lock bag which was found to contain 3 grams of methylamphetamine. Inside the car were 31 MDMA tablets, numerous partial tablets and powder totalling 20.7 grams, a gram of methylamphetamine in two snap lock bags, two ice pipes, three mobile phones, three .223 rounds of ammunition and a spent round and unused snap lock bags. There was also a Taurus Judge .410 calibre revolver in a shopping bag in the driver side footwell. It was not loaded. Following your arrest the police travelled to the property you had been occupying at Lake Leake. They found five firearms: a Remington double barrel 12 gauge pump action shotgun, a .22 calibre Stirling bolt action repeating rifle, a .22 calibre Brno Arms bolt action repeating rifle with a live round in the chamber and three in the magazine, an Australian Automatic Arms 5.56 calibre self-loading rifle with a magazine, a Weatherby .223 calibre repeating rifle with a spent cartridge in the chamber and two live rounds in the magazine. In various rooms in the house there was a significant quantity, 5,565 rounds in all, of ammunition in various calibres which included .22, .22 magnum, 410, .308, .338, magnum rifle cartridges and hunting pellets. There were also two silencers, two .22 magazines, two 5.56 magazines and a 12,000K volt Taser. The police also found an E-bike worth more than \$8,000 which had been stolen from a shop in Launceston about two months earlier.

There were also drug related items. There was a snaplock bag on a bedside table containing 0.3 grams of methylamphetamine, 742.2 grams of cannabis bud and five packets of suboxone strips.

It is not possible to be precise about the scale of your trafficking operations. The drugs found in your possession which are relevant to the trafficking charge had a street value of about \$13,000, but that provided just a snapshot of the days the drugs were seized. Evidence obtained from lawfully intercepted phone communications gives a better idea of the nature and extent of the business. You operated locally and there is no evidence that you imported drugs or bought or

sold very large quantities. Your counsel sought to distinguish it from what he called a “major operation” but it was substantial enough. You sourced quantities of methylamphetamine, MDMA tablets and cannabis from drug suppliers in Tasmania and on sold to a large number of people. During the seven week indictment period you were in contact with customers almost every day either by phone or text message. Your arrest on 25 May 2023 did not slow you down. To the contrary, a week later you told someone that after getting out of lockup you were going to flood the town and that you had organised something so you could make lots of money in a short period. Your largest market was for methylamphetamine. You had many regular customers and demand was high. You sold the drug in every common quantity ranging between a point, 0.1 gram, and an ounce, 28 grams and possibly greater. You were in regular contact with your supplier and were able to source and replenish your supply of the drug easily and at short notice. Even so, demand was so high that you sometimes had to wait for supply and you encouraged your customers to purchase quickly so as not to miss out. You travelled around Launceston in your car delivering drugs and collecting money owed to you for drugs. You also had associates who either sold drugs for you or purchased larger quantities to on sell to their own customers. That is, whilst most of the sales were to street level users you also sold wholesale amounts of methylamphetamine to other drug dealers. There were multiple examples of sales, for example, of half an ounce for \$4,500 and an ounce for \$6,500.

As to MDMA, between 29 April 2023 and 10 June 2023 you received messages and phone calls from persons wanting to purchase the drug. You received supply of tablets in the hundreds and sold them in various quantities. One phone call evidenced your offer to sell 100 tablets for \$50 each.

During the same period you received many messages and phone calls asking for cannabis. One customer regularly purchased six ounce bags which she then, to your knowledge, was trafficking herself. Another customer purchased a pound of cannabis for \$3,000 in cash.

Your plea of guilty to trafficking in firearms relates to the Taurus Judge revolver. It is not asserted that the trafficking in that firearm involved any commercial element. However, you are taken to have trafficked in that firearm because it was registrable, was not registered to you and you conveyed it from one place to another by driving around with it during the indictment period. There was no innocent explanation for your possession of that weapon. It was plainly associated with your drug trafficking business.

You should not have had that firearm or any other firearm or ammunition. You have never held a firearm licence and possession of any firearm or ammunition was an offence without more. Your possession of firearms and ammunition was also in breach of the interim family violence order. Even more seriously, you were subject to a firearm prohibition order. Firearm prohibition orders are made if the Commissioner of Police forms the opinion that a person is unfit, in the public interest, to possess or use a firearm. In your case the order was made on 27 May 2014, I infer because of your record of convictions to which I will refer shortly. The order prohibited you from possessing or using a firearm. As a result your possession of a firearm of any nature while the order was in force was a crime punishable on indictment. Count three on the indictment concerns the revolver. Count 4 concerns the remaining firearms. It does not include the Taser, the silencers or ammunition each of which are which are covered by separate charges under the *Firearms Act*. The State did not assert that any of the six firearms were prohibited although it seems to me that at least the revolver, the pump action shotgun and the 5.56 SLR clearly were. All of the firearms were registerable under the various categories under the *Firearms Act* but that does not mean that they were not prohibited firearms within the meaning of that term in

the Act and Schedule 1. The Brno .22 rifle and the Weatherby rifle were both stolen. Unauthorised possession of a prohibited firearm is an indictable offence. Possession of stolen firearms is also a very serious offence. You were charged with possessing prohibited firearms and possessing stolen firearms, but those charges against you were not proceeded with. The result is that I must not treat the fact that the firearms were prohibited or stolen as a factor aggravating the firearm prohibition order charge.

You are now aged 38. Since leaving school you have had a relatively industrious life holding employment variously as a landscaper, trades assistant, in a meat works and as a skidder driver. There is a good chance that you have employment available to you on your release. You are currently single but you have had two long term relationships from which you have children, the youngest of whom is seven.

This is your fourth conviction for drug trafficking. Even aside from that you have a poor criminal record beginning very early in your adult life. In 2008 you were given a six month wholly suspended term for assault and wounding. In 2013 you were sentenced to imprisonment for 16 months, half of which was suspended, for serious family violence. One of the charges was unlicensed possession of a firearm. That may well have contributed to the making of the firearm prohibition order. The suspended sentence was activated when you re-offended. Then in 2015 you were sentenced to imprisonment for 10 months for after being found prepared for commission of a burglary armed with a loaded handgun in breach of the firearm prohibition order. As long ago as 2008 and 2010 you were convicted for selling drugs. Your first conviction for trafficking was in 2013. You were given a four month wholly suspended term. In 2017 you pleaded guilty to four counts of trafficking and a series of associated firearm offences including two counts of possessing a firearm in contravention of the prohibition order. A drug treatment order was made with a custodial part of two years. Then, on 11 February 2021 you were sentenced on your plea of guilty to three counts of trafficking in methylamphetamine, cannabis and MDMA and being in possession of more than \$30,000 as the proceeds of drug sales. A home detention order for a period of 12 months was made. On each occasion it was made clear, as it has been in this case, that you for most of your adult life have had a significant problem with abuse of illicit drugs. Past comments on passing sentence repeatedly describe the motivation for your trafficking as the need to fund your addiction and your desire to stay out of trouble and lead a drug free life. On every occasion, the judges sentencing you for trafficking gave priority to your rehabilitation. I am told that you successfully completed the drug treatment order (although the pre-sentence report I obtained casts some doubt on that) and the home detention order. The latter order was completed in February 2022. However you lapsed again because your partner at the time was also a user.

You are not to be punished again for crimes for which you have already been punished, but you are no longer entitled to lenience. Addiction may have been at the heart of your offending, but the time has come to give greater weight to the need for punishment, general and personal deterrence and, perhaps most of all, protection of the public. Those who traffic in illicit drugs should expect harsh punishment. The use of and trade in methylamphetamine causes terrible harm. It is a matter of great concern to the courts and the community and generates other offending, especially crimes of dishonesty and violence. You are a repeat offender despite the opportunities offered to you to assist your rehabilitation. In general, trafficking motivated purely by profit is regarded as more serious than trafficking to fund addiction. In either case the damage caused is the same. Yours was a combination of both. Whilst there is no evidence that, as a result of your trafficking, you accumulated substantial assets I am satisfied, as you said so yourself, you wanted to make as much money as you could. Fortunately the period of trafficking did not

last very long but that was solely because of the good work of the police. You were only stopped because you were apprehended. Ironically, despite your own addiction, you were unable to resist sale of a drug which fostered and encouraged addiction in other people, thus subjecting them to the same situation you found yourself in. Your trafficking was of a scale and nature which warrants a substantial term of imprisonment.

The seriousness of the firearm charges should not be overlooked. Again you are a repeat offender. Many of your prior convictions involve unlicensed possession of unregistered firearms for improper purposes. You had a large property at Lake Leake on which, it was submitted on your behalf, that you hunted regularly, and that this was the primary motivation for the possession of the firearms. That does not explain the handgun and does not sufficiently explain some of the other firearms having regard to their type. Leaving aside the prohibition order it is highly unlikely that you could ever have obtained a licence which authorised possession of a prohibited firearm for the purpose you ascribe.

You are entitled to mitigation from your plea of guilty. It avoided the need for a trial which would have been lengthy, but not until just before the trial had been listed to commence and a great deal of police and prosecution resources had been utilised in its preparation. You may be sorry for the position you find yourself in but there has been no display of the type of remorse a court looks for.

A significant factor in sentencing is that you were in custody for two years and almost two months from your arrest on 15 June 2023 until the prosecution assented to a grant of bail on 13 August 2025. For much of that time prison conditions were difficult. You also spent two days in custody in May 2023. Justice requires that the sentence I impose take that 793 day period of custody into account and so any term of imprisonment I impose should notionally commence on 9 October 2023. I infer that it was the risk of injustice from that delay which led the prosecution to agree to a grant of bail. The head sentence I am about to impose will exceed the period that you have been in custody. However, I would have ordered that you be eligible for parole very shortly at least and to obtain parole it will be necessary to return you to custody to enable you to apply. I think that is unfair. Although only a limited time has elapsed since you have been back in the community you have not re-offended. Employment is available to you. As a result, instead of returning you to custody I will suspend the balance of the term but for a lengthy period on conditions which include supervision in the community for part of that time. You can be assured that if you commit an offence while the suspended term is in force that you can expect to be returned to custody.

You are convicted on each count on both indictments. On complaint 32789/23 you are convicted on count 2. Count 1 is discharged. On complaint 32791/23 you are convicted on counts 3, 4, 5, 6, 16, 17, 18, 19, 21, 25 and 26. I record that counts 1, 2, 9, 10, 11, 20, 22, 23 and 24 are subsumed in the indictment. On counts 7, 8, 12, 13, 14 you are discharged. Counts 15 and 27 are dismissed.

I order that the following items are forfeited to the State:

- item 3 on drug exhibit sheet 274125;
- items 3, 4 and 5 on drug exhibit sheet 274185;
- items 7 and 8 on property seizure record 195863;
- items 4, 5, 6, 7, 10, 11 and 14 on property seizure record dated 15 June 2023;
- items 1 and 2 on firearm receipt 24129;
- items 1 to 12 inclusive, 14, 15, 18 and 19, on firearm receipt 24146;

- items 1 to 3 inclusive on firearm receipt 24149.

Pursuant to the *Misuse of Drugs Act*, s 36B, I assess the reasonable expense of and attending the analysis and examination of the controlled substance as \$4,067 and award that sum against you as part of the costs of the prosecutor. You have 28 days from today to pay although you may enter into a repayment arrangement.

On complaint 32789/23, count 2 possessing morphine, and complaint 32791/23, count 25, possessing a smoking device, in light of the other sentences I am about to impose I make no further order. On complaint 32791/23 count 26, possessing the stolen mountain bike, you are sentenced to imprisonment for one month from 9 October 2023. On count 1 on indictment 131/2025, trafficking in a controlled substance, you are sentenced to imprisonment for three and a half years also from 9 October 2023. I suspend the balance of that term for three years from today on conditions which I will state in a moment. On count 2 on indictment 131/2025, on both counts on indictment 132/2025 and the remaining counts on complaint 32791/23 of which you have been convicted I impose one sentence. You are sentenced to imprisonment for 18 months. I order that six months of that term be served concurrently with the term just imposed but the balance is to be served cumulatively. I suspend that 18 month term for three years from today.

The result is a total effective term of four and a half years from 9 October 2023 the balance of which is suspended for three years from today. It is a condition of both suspended terms that during the period of three years from today that the order is in force you commit no offence punishable by imprisonment. If you breach that condition then a court must order that you serve the suspended part of both terms unless it is unjust. I impose a further condition that, for 18 months from today, you are to be subject to the supervision of a probation officer. The conditions which the law imposes on that order include that you must report to a probation officer at 111-113 Cameron Street, Launceston on or before 5.00 pm on 11 December 2025, you must, during the operational period of the order, report to a probation officer as required by the probation officer and comply with the reasonable and lawful directions of a probation officer or a supervisor, you must not, during the operational period of the order, leave, or remain outside, Tasmania without the permission of a probation officer and you must, during the operational period of the order, give notice to a probation officer of any change of address or employment before, or within two working days after, the change. I impose special conditions that you must, during the operational period of the order, submit to the supervision of a probation officer as required by the probation officer, attend educational and other programs, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer. If you breach any of those conditions you may be brought back to court and re-sentenced.