

STATE OF TASMANIA v HUON WILLIAM GENDALL
COMMENTS ON PASSING SENTENCE

18 DECEMBER 2025
CUTHBERTSON J

Huon William Gendall, you have pleaded guilty to an indictment charging you with the crimes of recklessly discharging a firearm and trafficking in a controlled substance namely methylamphetamine, cocaine, MDMA, alprazolam and cannabis. I am also dealing with your pleas of guilty to four counts of possessing a firearm when not the holder of a firearms licence of the appropriate category, possession of a firearm to which a firearms licence may not be issued and a charge of possession of stolen firearms.

In the early hours of the morning on 24 November 2021, Tasmania Police received a 000 call about a male discharging a firearm in Moonah. Police were directed to a property in Sunderland Street, Moonah on which a number of individual storage containers were located. Police searched the facility and found that one container was open. It was full of property. Police conducted a search of the container, looking for a firearm, and located a number of items of interest including drugs, smoking devices, quantities of cash, and other property. As a consequence, police obtained a telephone search warrant in relation to illicit substances. More drugs and cash were located during the further search. In addition, a number of firearms were also found.

As a consequence of finding this property, police spoke to the owner of the premises who showed them CCTV footage of that night. The footage captures you arriving at the storage facility at 1.52 am and discharging the firearm into the air at 2.11 am. The crime of recklessly discharge a firearm relates to this conduct. The footage also showed you placing an item underneath a nearby shipping container before going to a toilet on the site. Police went to that container and located a black sock with a zip tie around it. A .357 Smith and Wesson magnum 6 chamber revolver was retrieved from the sock. The hammer was not cocked on the firearm. Five rounds were loaded in the cylinder, four of which were live and unspent and the fifth round had been discharged. This firearm was later sent to Forensic Science Services Tasmania (FSST) for the purpose of DNA testing and your DNA was detected on the handgrip and trigger of the firearm.

You were still in the toilet when police found the firearm. Police asked you to come out and you refused to do so. Police attempted to gain entry by using a ram device but were unsuccessful. They heard the toilet flush and then you opened the door. Police searched the toilet and found a smashed Samsung mobile phone inside the cistern submerged in water. Messages retrieved from the phone indicate that you were aware police were searching the facility and were concerned about what they would find. The person you were messaging asked "How much did ya have in there?". You responded, "A lot!!!"

You were arrested and transported to the police station where you were interviewed. You made few admissions during the course of the interview. When asked about the firearm being discharged, you said you did not know what the go was with it. You said another two people attended the site, that they stood over you and tried to gain access to the storage unit you were in. You said they were wearing balaclavas and were on push bikes. There was yelling and screaming and you told them to fuck off. You were shown the CCTV footage of you discharging a firearm and you said it looked like self-defence. You were detained to appear in Court.

Later that day, police searched your home address and found a glass jar containing liquid methylamphetamine, a small amount of dried cannabis and four ice pipes.

The crime of trafficking in a controlled substance relates to your possession of the drugs located in the storage facility and at your home. During the course of the searches, the following drugs were located:

- 63.3 grams of methylamphetamine. A trafficable quantity of methylamphetamine is 20 packages or 25 grams. You possessed more than twice that amount. The total potential street value of the methylamphetamine ranges from \$18,000 to \$63,300 depending on how it is sold. The methylamphetamine was located in various quantities in a number of snaplock bags (21 in total) as well as in a liquid form in the jar. Your DNA was located on some of the bags and containers;
- 5.95 grams of cocaine. The cocaine was also located in a number of snaplock bags (7 in total). The potential street value of the cocaine seized ranges from \$1,500 to \$2,950 depending on how it is sold;
- 201 green tablets with superman S logos. A sample of the tablets seized were tested by FSST and found to contain various drugs, including MDMA, methylamphetamine and methylphenidate. The State asserts that it was your intention to sell the tablets as MDMA. The potential street value of the tablets if sold as MDMA ranges from \$6,000 to \$10,050. These tablets were also packaged in a number of snaplock bags (10 in total);
- 35.8 grams of cannabis was also located; and
- 64 alprazolam tablets.

Two sets of scales were also found. Traces of methylamphetamine were detected on one of the sets of scales.

A total of \$37,560 cash was also found in various locations in the container, bundled in amounts of between \$440 and \$20,485.

Three guns were located in the container: a double barrel Beretta 12-gauge break action shotgun, a black Adler Turkey 12-gauge lever action semi-automatic shotgun and a Smith and Wesson 357 Magnum revolver. The four counts of possess a firearm when not the holder of a firearm licence of the appropriate category (counts 3 to 6 on complaint 9478/21) relate to each of these weapons and the Smith and Wesson 357 magnum revolver found in the sock under the other container. In addition, the Beretta shot gun and the two Smith and Wesson revolvers were stolen firearms. The charge of possession of stolen firearms on complaint 9476/21 relates to these three firearms.

A taser was also located in the storage container. Count 7 on complaint 9478/21, possessing a firearm to which a firearms licence may not be issued, relates to your possession of this taser.

You are now 34 years old. Until you were in your early 20's you had pro social friends, family support and responsible employment. Since then, your life has been substantially affected by illicit drug use. You were first convicted of possession of a controlled drug in 2014. You were also convicted at that time of driving a motor vehicle whilst a prescribed illicit drug was present in your blood. In 2018, you were sentenced by a magistrate to a wholly suspended period of imprisonment on charges of selling a controlled drug and other drug related offences, including two counts of driving a motor vehicle whilst a prescribed illicit drug was present in your system.

Despite that suspended sentence, on 12 December 2019, you were sentenced for trafficking in a controlled substance in that you engaged in the business of trafficking in methylamphetamine, cannabis, tramadol, diazepam, oxazepam and MDMA over the period 27 October 2018 and 1 July 2019. On two occasions, you were intercepted by police in possession of drugs and cash, evidencing that you were selling those drugs over a period of time. The quantity of methylamphetamine found in your possession on those two occasions totalled 24 grams, less than half the amount located during the search the subject of the current charges. You were also found in possession of \$1,679. On that occasion, a drug treatment order with a two-year custodial part was made in an attempt to assist your rehabilitation. You initially complied with that order, graduating into phase two of the program after about 12 months. Unfortunately, your father died, and you relapsed. You seriously breached the conditions of the order by substituting, on four occasions, artificial urine for the samples you were otherwise required to provide as part of your participation in the program. The order was cancelled and you were ordered to serve 11 months imprisonment. That sentence was backdated to 24 September 2021. The offending I am dealing with occurred while you were still subject to the drug treatment order, a condition of which was that you must not commit another imprisonable offence.

You were released from custody on completing that substituted sentence and were subject to bail on these charges when, on 25 June 2023, you committed a further offence of trafficking in methylamphetamine and dealing with proceeds of crime. On that occasion, you were found in possession of over 170 grams of methylamphetamine and \$1,145 cash. The value of the methylamphetamine found in your possession was worth somewhere between \$30,000 and \$170,000 depending on how it was sold. You were sentenced to two years' and nine months' imprisonment from 26 June 2023 on that offence. The fact that you were on bail for other offences at the time was noted to be an aggravating factor. It was ordered that you not be eligible for parole until you served half of that term. You have not been granted parole because of this outstanding matter.

It was noted that at the time of your sentencing on 2 October 2024 that all prospect of rehabilitation is not lost. While in custody, you have engaged with programs including participation in the Peer Support and Building Pathways Programs. You served as a peer support worker within the prison for a period of six months, demonstrating aptitude in providing support, mentorship and advocacy to fellow prisoners. You have also been an active participant in the Building Pathways Program since 2025. This is a program designed for prisoners nearing release and focuses on developmental coaching to facilitate personal growth, communication skills and improve post release outcomes. I have also been provided a relapse and prevention plan that you have developed yourself. It is very detailed. You express being tired of using drugs, identifying that it takes over your life and opportunities. You have noted the impact of your drug use on your family. You recognise that your conduct contributes to the harm experienced by drug users and the community in general. In your plan, you say you are confident that you are personally done with drug use, but recognise that you have to prove your commitment to abstinence in the future.

Your counsel submits that the most significant sentencing factors in your case are rehabilitation and totality. It is submitted that you have excellent rehabilitation prospects. Your partner, who has struggled with drug issues herself, has successfully completed a drug treatment order. You have some property left to you by your father and have plans to work on it for the purpose of selling it. You have not wasted your time in custody and participated in twelve separate courses while there.

You have been eligible for parole in respect of the sentence you are currently serving since November 2024. Your earliest release date on your current sentence is 25 March 2026. You have been subject to copious lockdowns in custody during the last six months which makes your time in prison more onerous.

Your plea of guilty is in your favour, but it has come at a late stage. It followed prosecution discontinuing proceedings against you on a charge of aggravated assault. I accept the delay is at least in part referable to the negotiations that took place. I note that you have been in custody on a continuous basis since June 2023. While totality is a relevant consideration, the need to impose a deterrent sentence also remains an important one when sentencing you for these offences. The offending is very serious. The quantity of drugs found in your possession was significant, although not as great as the quantity found on you in June 2023. You had a substantial quantity of cash in your possession as well. You have not disputed that this is "tainted property" within the meaning of the *Crime (Confiscation of Profits) Act 1993* meaning it is an instrument of crime, proceeds of the offence or property that constitutes a commercial benefit in relation to the offence. On this occasion, your offending was also associated with the possession and use of firearms. The State submits it is open to infer your possession and use of these weapons, particularly your discharge of a firearm, was for the purpose of protecting the contents of the container, including the drugs and cash.

This Court has stated many times that trafficking in drugs of addiction is an extremely serious offence. The trafficking of methylamphetamine, in particular, is a very serious community problem. Methylamphetamine causes untold damage to the health and lives of users of the drug. The criminal activity engaged in by users in order to support their addiction is prevalent, often very serious and causes considerable harm in the community.

The possession of stolen firearms by those engaged in serious criminal activities such as trafficking is also matter of great concern to the community. One of the weapons in your possession was loaded and had been discharged by you at a suburban property. You committed the offence of recklessly discharging a firearm by firing the gun in a public place without due regard to the safety of others and indifferent to the risk that someone may suffer harm as a result. Community protection and safety is the primary intention behind the *Firearms Act* and associated legislation. This is achieved through strict regulation via a licensing regime to ensure that only those people who are fit and proper are entitled to possess, use and deal with firearms and then only for lawful purposes. The offence of recklessly discharge a firearm attracts a maximum period of imprisonment of 21 years. The offences of possess a firearm without a licence each attract a maximum period of imprisonment of two years. The charge of possession of stolen firearms attracts a maximum period of five years imprisonment. Such penalties mark the seriousness of the offences and the intention of Parliament to deter such conduct. The community is rightly concerned to ensure that firearms do not fall into the wrong hands. General deterrence is a prominent sentencing consideration as a consequence.

In relation to the trafficking charge, specific deterrence is also a relevant consideration. It is aggravating that you committed the offence while subject to a drug treatment order which was accompanied by a condition that you not commit another offence punishable by imprisonment. A period of imprisonment is required in my view. In setting the length of the sentence, I have had regard to the sentence you are currently serving and the need to avoid a sentence that is too crushing. I have also had regard to the eight days you have spent in custody that has not been allocated to another sentence. I acknowledge that your own addiction has motivated your offending and that you have some prospects of rehabilitation. You have, however, previously

had the benefit of sentences that provided you opportunities to rehabilitate, yet reoffended. I consider that your prospects of rehabilitation warrant affording you the opportunity of parole. I will order that the sentence operate cumulatively to the current sentence and that you be eligible for parole at the earliest opportunity.

Huon Gendall, you are convicted on charges of recklessly discharging a firearm and trafficking in controlled substance on the indictment, complaint 9476/21 and on counts 3 to 7 on complaint 9478/21. I order that the following items be forfeited to the Crown:

- Items 2, 4, 5 and 25e on police property seizure record dated 24 November 2021 related to the property seized from the Moonah premises;
- Item 9 on police property seizure record dated 24 November 2021 related to the property seized from the **address** property.

I adjourn sine die the application pursuant to the *Misuse of Drugs Act* for the reasonable expenses of and attending the analysis and examination of the controlled substances for the reasons that we have already discussed with counsel. I am satisfied that the sum of \$37,560 is tainted property as the proceeds of drug sales and that no hardship is likely to be caused to any person by making an order for it to be forfeited. I order, pursuant to s 16(1) of the *Crime (Confiscation of Profits) Act 1993* that the money is forfeited to the State.

You are sentenced to a period of imprisonment of 18 months cumulative to the period of imprisonment you are currently serving. I order that you not be eligible for parole until you have served half of that term.