

TRANSCRIPT OF PROCEEDINGS

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SUPREME COURT OF QUEENSLAND

CRIMINAL JURISDICTION

JACKSON J

Indictment No 978 of 2021

THE QUEEN

v.

PATRICK WILLIAM SEABROOK

BRISBANE

10.31 AM, TUESDAY, 3 AUGUST 2021

SENTENCE

Any Rulings that may be included in this transcript, may be extracted and subject to revision by the Presiding Judge.

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

HIS HONOUR: Would you stand, please, Mr Seabrook. I am to sentence you for four offences on the indictment and one offence on the bench charge sheet. The most serious of the offences is trafficking in dangerous drugs, being cocaine and MDMA, for a period of approximately four weeks, maybe as much as 30 days. The maximum penalty for that offence is 25 years imprisonment. That is count 1 on the indictment.

The other offences on the indictment include possession of a dangerous drug in excess of two grams, being cocaine, which also carries a similar period of imprisonment, or 20 years imprisonment if the offender is drug-dependent. It is submitted on your behalf that you were a user, but, for present purposes, I need not make a finding specifically about whether you were dependent.

The remaining offences on the indictment are possessing a dangerous drug, being a small quantity of MDMA, which is count 3, and receiving or possessing property obtained from trafficking or supplying, being an amount of cash. The single offence on the bench charge sheet is possessing property suspected of having been used in connection with the commission of a drug offence.

For four weeks in March 2018 you trafficked in cocaine and, it is said, MDMA. Your total purchases were six ounces of cocaine, for approximately \$27,000, and three grams of MDMA, for approximately \$450. Your total sales were two supplies or sales of cocaine in a quantity of one ounce, for \$5500, on two occasions, and, I am told, two sales of what were, in total, 20 capsules of MDMA, for \$25 per capsule. The business, so described, was unprofitable.

On 30 March 2018 you were in possession of 72.673 grams of the cocaine that I have described that you had purchased, assessed by pure weight. That is the subject of count 2. You were in possession of one capsule of MDMA – that is count 3 – and \$6950 of Australian currency. That is count 4. There was also drug paraphernalia – that is the subject of the bench charge sheet – comprising some scales, a vacuum machine, some empty capsules, some seal bags, some magnesium powder, straws and a spoon.

When searched, you voluntarily showed police the location of the drugs. When questioned about the paraphernalia, you volunteered to police how they, or it, was used. You participated in an interview, and it is accepted that the source of the factual information that supports the trafficking offence were the admissions that you made voluntarily in the course of the interview. At the end of the interview, you were charged and granted watch-house bail to appear at Southport on 19 April 2018 when your bail was enlarged. Since then, you have not committed any further offences, except for a breach of bail condition for which you were dealt with in late 2018.

You were 29 at the time of the offences with which I am concerned. You are 31 now. You have some criminal history in Tasmania, where you were born and grew up, and in Queensland after you came here in approximately

2012, but it is both minor and not relevant to the offences with which you are charged now.

5 The prosecution relies on the facts that I have recounted, including accepting that the facts as to trafficking came from your admissions, and that that attracts the principles in *AB v R* that entitle you to a discount from the sentence that would otherwise be made. The delay in the proceeding coming before this court is not in any way adverse to you. The prosecution accepts that your plea of guilty is an early plea of guilty. As well, I have already mentioned the extent of your cooperation with police.

10 The prosecution relies on *R v or McLean* [2021] QCA 70, as being a comparable case. I think it is not all that comparable, in fact.

15 On your behalf, in support of your plea in mitigation, the ultimate submission that is made is that I would impose a head sentence of three years for the trafficking offence, which I would immediately suspend, as opposed to the submission that was made by the prosecution that I would impose a head sentence of four years, suspended for 12 months, the real difference being the prosecution submits that personal deterrence, in your case, requires a period of actual imprisonment.

20 In support of your plea, the matters I have already referred to are identified, and it was also submitted that I should take into account the short period of the trafficking involved, the few supplies – in fact, four in total – that were involved, as well as the relatively good history that you have.

25 It is submitted that you were, at the time, a user of drugs, being both cocaine and cannabis, and that the straws that are in the paraphernalia refer to your use of cocaine, as well as the fact that there were devices for smoking cannabis that were located in the house at the time of the search. It was said by you, at the time of
30 arrest, that your engaging in the trafficking was to fund a gambling habit and that you had debts.

You grew up in Tasmania where you were educated until the level of grade 10. Following that, you became a bricklayer by qualification, where you have been
35 employed for most of the time since, although you had a period where you engaged in another business for a short time. Since being charged and released for these offences, you have returned to your employment as a bricklayer, and you are presently employed.

40 It is said on your behalf, and, for present purposes, I have decided to accept, that you have disassociated from your peer group of friends that were drug-users associated with the nightclub scene on the Gold Coast, as it was described. You have a close relationship with your father, who supports you, and I was informed, on this occasion, that your father notes your significant improvement. You have formed a
45 relationship with someone who is, at this stage, a partner of six months, who has children, and that is said, also, to have contributed to the stability of your life now.

It is said on your behalf that you are now occupied, and that I should take into account that you have rehabilitated by stopping the use of dangerous drugs since the events with which the offences are concerned, and that you have had no further offences except for the breach of bail that I have mentioned.

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There are no drug screen tests that might be expected on a plea which relies on the extent of rehabilitation, which is submitted on your behalf, and I have some concerns about that, but have decided to accept the submissions, having regard to all the other circumstances that I have identified.

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The ordinary consequence for someone of your age, Mr Seabrook, who engages in or starts a trafficking business for profit, such as to fund gambling, is that a period of imprisonment is imposed that is of the order submitted by Mr Kaplan, even where, as here, the circumstances are such that the time or period during which the trafficking was engaged in is brief and the sales were few. Against you is the fact that there is a significant quantity of cocaine involved, but the other factors all fairly point in your favour.

15

The ultimate question is whether you should, in the circumstances, be ordered to serve a period of actual imprisonment. Having regard to the circumstances, I have decided that you should not.

20

There are ways in which the sentence could be structured to reflect, as it were, a more serious head sentence for the whole of the offending than I propose to impose. But I do consider, particularly having regard to the lack of the drug screen tests before me, that you should be supervised for the period of the sentence that I will impose. And it is for that reason that I have chosen to structure the sentence as I will announce.

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In reaching the conclusions and in making the orders that I make, I take into account your plea of guilty, or your pleas of guilty, and that they were made at an early stage. I have also given significant emphasis to the orders that will see you rehabilitated, or most likely rehabilitated in the community, given that this is your first serious drug offence, notwithstanding that you are not as young an offender as many who enjoy the benefit that I am about to give you. For those reasons, and, in particular, I have used your early pleas of guilty, in arriving at the head sentence that I am about to impose. For those reasons, the orders are as follows.

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On counts 1 and 2, I order that the defendant be imprisoned for three years. On count 4, I order the defendant be imprisoned for three months. On counts 3 and the offence on the bench charge sheet, I order the defendant be convicted but not further punished. I fix the defendant's parole release date at 3 August 2021.

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Because I am fixing your parole release date as at today's date, I am required to explain to you the consequences of an order of parole, when it is a court-ordered parole. It is, in substance, the same as if you were placed on parole after serving a period of custody in prison. So the same conditions will apply to you as if you had done so under section 200 of the Corrective Services Act.

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The additional matters that I need to explain to you are that you must immediately report to a Probation and Parole Office under the Act, and, given your residence – is it the Southport office, Mr - - -

5 MR McMILLAN: Yes, your Honour.

HIS HONOUR: - - - McMillan – at Southport. You must do that by the close of business today or the close of business tomorrow. If you do not, then you will be at large without the benefit of the parole order that protects you or gives validity to you
10 being in the community, and you will be dealt with as if the order had not been made, so do not make that mistake. The consequences of you failing to comply with the requirement of reporting in that time are significant.

The other thing you should bear in mind, and it is important to bear in mind, is that
15 being subject to a court-ordered parole order, even one made as at today’s date, does not mean that you are not serving a sentence. You are serving that sentence in the community rather than in a Corrective Services facility. However, if you breach the order, you will be liable to be returned to prison without further intervention by any court at the decision of the Parole Office.

20 As well, you should be aware that the conditions which apply to you as a result of being on a parole order include that you must comply with reasonable requirements that are imposed by the office, including, as they will inevitably do, that you provide or submit to drug testing. And if you fail such a test, you would be likely to return to
25 prison without further ado.

Is there anything else, Mr Kaplan?

MR KAPLAN: No. Thank you, your Honour.
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HIS HONOUR: Mr McMillan?

MR McMILLAN: No, your Honour.

35 HIS HONOUR: Adjourn the court, please.
