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THE SUPREME COURT OF
THE NORTHERN TERRITORY

SCC 22412292

THE KING

and

AARON GLENN SMALL

(Sentence)

HUNTINGFORD J

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON WEDNESDAY 27 NOVEMBER 2024

Transcribed by:
EPIQ

HER HONOUR: Aaron Small, you have pleaded guilty to three counts on the indictment dated 16 September 2024. All of this offending occurred on 12 April 2024.

The charges on the indictment are, firstly, Count 1 that you supplied a commercial quantity of a Sch 1 dangerous drug, that was MDMA. The maximum penalty for that offence is imprisonment for 25 years.

Count 2, is the charge that you supplied less than a commercial quantity of methamphetamine, a Sch 1 dangerous drug, and the maximum penalty for that offence is imprisonment for 14 years.

Count 3 was that you drove a vehicle in a dangerous manner during a police pursuit. The maximum punishment for that offence is imprisonment for five years.

In addition, you have today entered pleas of guilty to two offences transmitted from the Local Court. They are, firstly, Charge 6 on complaint which was that you drove on a road and failed to obey a direction to stop given by a police officer. That is contrary to Rule 304(1) of the Australian Road Rules. The maximum penalty for that offence is 20 penalty units or imprisonment for six months.

Charge 7 on that complaint was that you intentionally possessed less than a trafficable quantity of cannabis contrary to Section 7B(1) of the *Misuse of Drugs Act*. The maximum penalty for that offence is 50 penalty units.

I will say something about the facts of the offending. You were 37 years old at the time and there were two co-offenders, Mitchell Meldrum and William Taylor. Sometime prior to 9 April 2024, Mr Meldrum ordered 28 grams of methamphetamine and 28 grams of MDMA from an unknown source to be sent to an address in Gray, Northern Territory addressed to an 'A Davis'. He intended to supply the drugs within the Darwin area. The order was sent via express post from an unknown sender located in Victoria.

On 9 April 2024, police intercepted the package at the Casuarina Post Office. A search warrant was executed and the package was found to contain 28 grams of MDMA concealed within a sock and 28 grams of methamphetamine concealed within in a digital clock. The drugs were seized.

On 12 April 2024, the package was returned to the Palmerston Post Office. Shortly before 8:30 am on that day, the Australia Post staff left a delivery slip for the package in the mailbox at the residence in Gray to which the package was addressed.

Around 9 am that same day you and your co-offender Mr Taylor attended the Gray residence in your car. Upon your arrival at the residence, Mr Meldrum recruited you and Mr Taylor to collect that package from the Palmerston Post Office offering you between \$1000 and \$2000 if you received the package. You agreed to collect the package in return for a small portion of the drugs.

At around 9 am, you drove to the Palmerston Post Office and dropped Mr Taylor off nearby. He attended the service window of the post office and took possession of the package. As Mr Taylor left the service window you pulled your vehicle over to the sidewalk to pick him up.

Police had been conducting surveillance on the post office and were situated about 10 metres away from you and Mr Taylor when they activated red and blue flashing police lights to indicate for you to stop your vehicle.

A police officer got out of the police vehicle and directed you to stop. He identified himself as a police officer. Mr Taylor entered your vehicle. You saw the officer before disobeying the direction to stop and drove off at speed.

An unmarked police vehicle containing two other police members then activated its emergency lights and sirens and attempted a traffic apprehension on your vehicle. You deliberately failed to stop and so began a traffic pursuit.

You turned left onto The Boulevard and accelerated. Near where the Primal Bar and Grill is located, you grabbed the package from Mr Taylor and threw it out your window. You continued along The Boulevard and turned left into Palmerston Circuit.

You then travelled a short distance before approaching a roundabout at Palmerston Circuit and Frances Drive where you drove onto the wrong side of the road and turned right onto Frances Drive from the wrong side of the roundabout.

You briefly stopped your vehicle during the pursuit, allowing Mr Taylor to exit near the Palmerston McDonalds where he ran off through the carpark. The pursuit was terminated by police when you turned into University Avenue. The last sighting of you was when you turned left into Chung Wah Terrace.

You later drove to your home address in Bakewell. Just before 10 am, police officers from the Drug and Organised Crime Division attended your residence and placed you under arrest. CCTV from the residence showed you removing the registration plates from your vehicle in an attempt to avoid detection.

I will say something about your personal circumstances. You are currently 38 years old. You were born and raised in Darwin and you are the oldest of five siblings. You have a 13-year-old son who lives with your former partner.

You and your former partner are on speaking terms and you have regular access to your son. You try and see him as often as you can however your drug addiction has at times made this difficult.

You attended school at Kormilda College to Year 9 but you did not enjoy school and you found the formal education setting quite challenging. In your late teens you were employed full-time as a landscaper.

You have been using recreational drugs since you were 14 years old having started with cannabis, progressing to amphetamines soon after. You started using methamphetamine when you were around 15 years of age.

At the age of 27, following years of drug addiction, you began experiencing symptoms of psychosis and schizophrenia and you were formally diagnosed with those conditions during a period of incarceration in 2021 and 2022. I am told that you hear voices and other associated hallucinations as a result of your condition.

Your lawyer has put to the court that you were aware that the package contained drugs however you did not know the precise details as to the quantity or type of drug that it contained.

You reportedly refused to enter the post office as you suspected the police could be involved in the package delivery so you agreed to drive Mr Taylor to the post office so that he could be the one to collect the package. You acknowledge that you sped away from the post office in an attempt to escape police and your inevitable apprehension.

The court has been provided with a letter from your mother Ms Annalee Small dated 5 November 2024. The letter states that you have expressed on multiple occasions you regret your actions from this day and that you were under a lot of stress at the time due to having recently lost a close friend to suicide and finding out about a sexual assault upon your sister as a child.

Your mother states that you took that news quite hard and you were still trying to process those events. The letter also makes reference to your enjoyment of gardening and spending time with your dog.

You do not come before the court as a person of a good character due to your extensive criminal history in the Northern Territory dating back to 2007. Your history comprises a number of driving and traffic offences; firearm offences; stealing; trespass and property offences; aggravated assault; failure to abide directions of police, resisting police and a number of convictions for supplying and possessing drugs.

You also have numerous breaches of court orders in the period 2010 to 2023. Your most recent matters when you were dealt with in the Local Court on 15 November 2023 for drug and firearm offences committed on 20 July 2023, that offending also breached a suspended sentence which was fully restored by the Local Court as a result.

I also note that you were released from the Darwin Correctional Centre after serving that Local Court sentence on 21 December 2023 and this offending on 12 April 2024 was therefore less than four months after that release.

The sentencing principles in this matter are primarily punishment, deterrence and community protection. I note that drug offending is prevalent in the Darwin area

and the Territory more generally. The harms caused are well known. Methamphetamine is a particularly pernicious drug which causes great harm to the community as well to the user and your own history is some testament to that.

It is accepted that you have a lesser degree of moral culpability for this offending than Mr Meldrum who was the primary offender responsible for ordering the drugs. That being said, you are entirely responsible for your decision to participate in the collection of the drugs and the subsequent pursuit.

The quantity of the drugs, while not a major factor, is relevant. The package had 28 grams of MDMA, just over the commercial quantity threshold which is 25 grams, and 28 grams of methamphetamine which was just less than three-quarters of the commercial quantity so well within the trafficable quantity range.

This offending involved some minimal planning as you had agreed to be involved in the collection of the package from the post office in return for a portion of the drugs. However, given your relatively peripheral involvement in the supply in the drug offending on the indictment, Charge 1 and 3 on the indictment are within the low range for offences of this type.

In relation to the police pursuit, following your departure from the post office you had ample opportunity to stop the vehicle following police direction however you only stopped briefly to allow Mr Taylor to exit before continuing the pursuit, then driving in the course of the pursuit.

Driving on the wrong side of the road at the roundabout was clearly dangerous. However, the driving overall did not involve the very high level of risk and danger sometimes seen in matters of this type. And there is no evidence, for example, that any member of the public was actually, as opposed to potentially, put at risk and this is a relatively low range example of that type of offence but not in the lowest category.

You have taken responsibility for your offending by making full admissions on your arrest and by entering your plea of guilty at an early opportunity. Notwithstanding that this was a strong Crown case, your plea, nevertheless, has meant that no witnesses were required to give evidence and has saved the time and cost of a contested proceeding.

Following your arrest you participated in an electronic record of interview with police and made full admissions to the offending and you also assisted police with the investigation. In view of that assistance and your early plea of guilty I afford you a discount of 25 per cent on the sentence as you would otherwise have received.

You have been in custody since your arrest on 12 April and the sentence I impose today will take that into account and also that you have spent that time in remand. And that that time on remand was spent in protective custody which has made your time on remand more difficult than it otherwise would have been.

As to concurrency and totality, the drug offending was one course of conduct and concurrency is appropriate. The criminality involved in the pursuit and the failing to stop are also properly reflected in a concurrent sentence for those two sentences.

However, the two separate types of offending, that is the drug offending and the traffic offending, although closely related in time requires some accumulation to reflect the different criminality involved. The cannabis possession must be dealt with by way of a fine.

In relation to the question of a suspension, the question of rehabilitation is primarily considered in relation to whether you should receive a suspended sentence. A s 103 pre-sentence report was received. It is very comprehensive.

Your situation is described as complex. The report sets out your previous, somewhat patchy, record of compliance with suspended sentences. There is quite a bit of detail in the pre-sentence report as to your mental health challenges and your struggles with addiction.

You told the pre-sentence report writer that your involvement in the offending for which you are being sentenced today was not precipitated by your relapse into methamphetamine although you do agree that you agreed to participate in return for some drugs. The report writer was somewhat sceptical. But whether you have relapsed or not, future relapse remains a concern based on your history and your circumstances.

When in community, you are managed by the adult mental health team and you also have an alcohol and other drugs case manager. You receive medication for your conditions. You are also under the care of an addiction psychiatrist. The pre-sentence report states that community-based interventions will recommence when you are released.

You have maintained your public housing unit whilst in incarcerated and you are able to return to that home. I note exhibit D3 handed up this morning indicates that you are at risk of losing your housing if you are to spend more time in gaol.

That would, of course, have the effect of rendering you homeless on release. That is something which would negatively affect your rehabilitation and, in my judgment, would make you more likely to reoffend.

Your alcohol and other drug counsellor has recommended that you attend residential rehabilitation when a place is available which is likely to be in 2025. The purpose of that is to assist with preventing your relapse into drug use.

You are said to have a level of resistance in engaging in residential rehabilitation possibly due to your mental health concerns. However, any residential rehabilitation would, of course, have to be suitable to your situation upon assessment and recommended by your treating doctors.

Community Corrections have advised that bearing in mind your stable accommodation and your existing arrangement with mental health, alcohol and other drug services, they can assist you in minimising relapse prior to attending residential rehabilitation through collaborative case management.

The upshot of that is that you have been assessed as suitable for general supervision on the conditions set out in the pre-sentence report notwithstanding your prior failures.

In the circumstances I am prepared to give you another chance on a suspended sentence however you are warned that if you reoffend, you will come back here and I will almost certainly restore the outstanding balance and require you to go back into gaol. You must also comply with all of the conditions of the suspended sentence or you will also be brought back to the court.

Do you understand, Mr Small?

THE ACCUSED: Yes, your Honour.

HER HONOUR: Now, I will go through those conditions.

The conditions that I propose to impose are these. As I have just said, you must not commit any other offence punishable upon conviction by imprisonment and you must be of good behaviour.

You will be under the supervision of Probation and Parole and you must obey all the Probation and Parole officer's reasonable directions. At the discretion of a Probation and Parole officer you must have attached an approved monitoring device as directed by a Probation and Parole officer and you must comply with any directions given in relation to that device.

You must not frequent or visit any place or district unless directed by a Probation and Parole officer. You must, if found suitable, enter into a residential rehabilitation facility or any other program assessed as suitable and complete the program as directed by a Probation and Parole officer.

You must participate in assessment, counselling and/or treatment as directed by a Probation and Parole officer. You must not purchase, possess or consume alcohol and you must submit to testing as directed by Probation and Parole or a police officer.

You must not purchase, possess or consume any dangerous drug. That is other than something prescribed by a medical practitioner. And you can be tested for illegal drugs by Probation and Parole.

Do you agree to comply with those conditions, Mr Small?

THE ACCUSED: Yes, your Honour.

HER HONOUR: I will now proceed with your sentence. Stand up please, Mr Small.

In relation to Count 1 on the indictment you are convicted and sentenced to imprisonment for 15 months after discount backdated to 12 April 2024.

On Count 2 on the indictment you are convicted and sentenced to 9 months' imprisonment concurrent with Count 3.

Count 3 on the indictment you are convicted and sentenced to 6 months' imprisonment three months cumulative on Count 1.

On the Charge 6 on the complaint, that is the failing to stop, you are convicted and sentenced to 1 month imprisonment concurrent with Count 3.

And Charge 7 on complaint, that is the possession of cannabis, you are convicted and fined \$100 and a victim levy of \$150.

So the total effective sentence is 18 months' imprisonment backdated to 12 April 2024. It is suspended from today for 12 months on the conditions that we have been through in the s 103 report.

To the extent necessary I order a forfeiture of the drugs.

Is there anything arising?

MS DONAHOE: Nothing arising.

HER HONOUR: Thank you for your assistance.

We'll adjourn.
