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THE SUPREME COURT OF  
THE NORTHERN TERRITORY

SCC 20911377

THE QUEEN

and

TRISTAN ADAM CHRISTIE

(Sentence)

OLSSON AJ

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON TUESDAY 27 OCTOBER 2009

Transcribed by:  
Merrill Legal Solutions

HIS HONOUR: Tristan Adam Christie, you have admitted by your plea of guilty that on 1 April 2009 at Darwin you unlawfully supplied 3,4-methylenedioxyamphetamine, a dangerous drug specified in Schedule 2 of the Misuse of Drugs Act to other people. You have further admitted that the unlawful supply involved the circumstance of aggravation that the amount of the dangerous drug was a commercial quantity, notably, 658.43 grams. The relevant charge was brought against you on the basis of the extended definition of the word, supply, that is contained in s 3(1) of the statute.

A conviction will be recorded against you in respect of that offence. You should understand that the offence attracts a maximum penalty of imprisonment for fourteen years.

The facts related to the commission of the offence are not in dispute.

You are 21 years of age. At some time prior to 8.25 am on Wednesday 1 April 2009, you came into possession of approximately 2000 ecstasy tablets in Brisbane. At 8.25 am you boarded QANTAS flight QF824 to Darwin with those tablets in your baggage. The aircraft arrived at the Darwin International Airport at about 12.10 pm.

Police acting on information received approached you shortly after you disembarked from the aircraft. You were informed that you and your possessions would be searched under the provisions of s 120(c) of the Police Administration Act. You were taken to an interview room at the airport where you were cautioned. You admitted that you were in possession of 2000 pills inside the bag that you were carrying. Police then searched your black Filo carrybag and seized two Cryovac plastic bags containing 20 individual clipseal bags within them. The 20 individual bags were double Cryovac-ed within the two initial Cryovac bags. They were found to contain a total of 658.43 grams of MDMA tablets.

You were arrested and conveyed to the Darwin Police Station watchhouse and subsequently participated in a formal record of interview in the course of which you made full admissions as to the possession and intention to supply the 2000 ecstasy tablets which had been seized.

3,4-methylenedioxyamphetamine, otherwise known as MDMA, is listed as a Schedule 2 substance in the Misuse of Drugs Act. A quantity greater than 25 grams of MDMA is defined as a commercial quantity for the purposes of the statute. It follows then that the quantity of MDMA found in your possession was about 26 times the commercial quantity.

At the time of the offence, the Darwin International Airport departure/arrival lounge was a public place that was open to and being used by the public.

It is not disputed that the current Darwin street value of one MDMA tablet is of the order of \$50. If sold for that price on an individual tablet basis, you

stood to received about \$100,000 in proceeds from the disposal of the tablets. If they were sold in bulk, you would have received a somewhat lower figure.

You are 21 years of age, as I have said, and were born and grew up in Adelaide. You left school partway through Year 12. Your parents separated when you were about 15.

It is said that you have always had a good work ethic. You commenced an apprenticeship as a motor mechanic as I understand it, but this ceased for some reason after about two and a half years following which you have had several different forms of employment. You have engaged in bar and restaurant work for which you have some formal qualifications. You have also worked in tree lopping, maintenance and also roofing.

I have before me a reference from one of your former employers to the effect that he would be happy to re-employ you when you are free to return to work.

It is said that you commenced using amphetamine in a party context when you were 16 and then rapidly became heavily addicted to it. You progress from snorting to drinking it to ultimate intravenous use. You eventually moved to an extremely high level of usage at which stage, I am told, your behaviour became erratic and there was a deleterious impact on your mood.

You relocated to the Territory when you were 19 to escape the drug scene. You managed to abstain for about 12 months. After your apprenticeship fell through, you were working long hours at two jobs and commenced drinking and also using amphetamine to help you stay awake. You subsequently made a conscious decision to move to Groote Eylandt to attempt to cease drug usage and were largely abstinent while in that area. However, you returned to Darwin after some months and rapidly relapsed. In recent times, you became an extremely heavy user of MDMA tablets.

It is clear that in April last, having gone to Brisbane, you deliberately and foolishly acquired a large number of MDMA tablets with the express intention of selling them in the Territory and also, of course, to satisfy your own habit. You anticipated making a net amount of \$10,000 - \$15,000 profit from sales after retaining some tablets for your own use.

Following your arrest, you were admitted to the CREDIT NT program on 15 May last. You became involved in the Banyan House program and progressed satisfactorily within it for about five months. You have been unable to complete the program, I am informed, for technical reasons because you are no longer on summary jurisdiction bail. You accept that you need to spend considerably much more time within such a program to effect complete rehabilitation. I here pause to note from the s 103 report that, since I wrote these notes and that report has only just come to hand, you have in fact continued on in Banyan House and are still receiving assistance there.

I note that after having been out of contact with your parents for some years, you have now re-established a relationship with them and they are supportive of you. I am told that you have also formed a relationship with a young woman who is not a drug user and is also supportive of you.

Your counsel has submitted that you had a history of both working hard and playing hard, a situation in which you became involved in the drug scene, and in which you found it difficult to escape. I accept that in recent times, you have taken positive and fruitful steps to overcome your addiction although, as I have indicated, you still have some distance to go.

It has been put to me that you come before the Court as a young person who has no prior record of offending. You have already heard the clang of the prison door and have spent a total of 44 days in custody on remand. It is said that this was a salutary and most unpleasant experience for you.

Your counsel urges upon me, and I accept, that having regard to your young age and the fact that you are a first offender, the matter of your continued rehabilitation ought to be a major consideration. He argues that the community interest would best be served by the adoption of a sentencing strategy that is designed to promote such an end result rather than by imposing an immediate substantial custodial sentence to be actually served. Whilst I have considerable sympathy for that point of view, I am nevertheless required to bear in mind that the Sentencing Act mandates the adoption of a balanced approach to the sentencing process.

It is stating the obvious to say that the distribution and sale of drugs such as amphetamines generally and MDMA tablets in particular has become a major social problem in the Territory in recent times. The quantities distributed have become considerable and the monetary considerations are huge.

There is not the slightest doubt that drug usage has an enormous deleterious effect in the community and that that effect is manifested in several ways. Amphetamines and MDMA are extremely addictive and are plainly likely to have a very adverse effect on the health and conduct of those who become long-term heavy addicts as you, yourself, have experienced. Additionally, they also inevitably give rise to grave antisocial consequences in the form of aberrant behaviour that not infrequently leads to the commission of criminal offences and also the direct commission of criminal offences against other members of the community and their property designed to acquire money to satisfy drug habits. Those manifestations are frequently seen in the criminal lists of the Territory Courts. It is stating the obvious to say that the illicit drug trade simply could not exist absent persons willing, for whatever reason, to participate in the distribution and sale of the relevant substances.

The gravamen of your offending is that you did not merely bring MDMA tablets into the Territory for your own use. You knowingly and deliberately brought in a large quantity of them for the express purpose of selling and distributing them within the Territory community. Whilst one cannot but

sympathise with you in your battle against addiction, at the end of the day the plain fact of the matter is that this was a substantial commercial enterprise involving the potential distribution of upwards of 2000 tablets with the express intention of making a substantial profit from so doing. It follows that the factor of general deterrence must be recognised as a dominant consideration.

As against that, due regard must of course be given to your young age, prior good record and genuine attempts at rehabilitation. You are also entitled to a full discount for your timely plea and ready cooperation with the authorities.

In recognition of the inherent seriousness of the offence and the specific mandate of s 37 of the Misuse of Drugs Act, I am bound to impose an actual sentence of imprisonment of not less than 28 days unless, having regard to the particular circumstances of the offence or of you as the offender, I am of the opinion that a penalty of actual imprisonment should not be imposed. In the circumstances of this case, I could not reasonably arrive at such an opinion.

As I have already pointed out, the legislature has prescribed a maximum penalty of 14 years imprisonment for an offence of this inherent gravity. That is a clear indication of the seriousness of it.

Having regard to all of the countervailing considerations, I take as my commencement point a sentence of imprisonment for three years as being appropriate to the circumstances. In recognition of your timely plea, I reduce that by 25 percent to a sentence of imprisonment for two years and three months from which I further deduct 44 days to allow for time already served. That sentence will run from today.

In view of your young age and lack of prior convictions and with a view to promoting continuance of your rehabilitation, I am prepared to adopt the unusual course of conditionally suspending that sentence after service of a further period of six weeks with an operational period of two years from the date of your release.

You should understand that if you are convicted of an offence punishable by imprisonment within that period, you will be brought back before the Court to be dealt with under the Sentencing Act and you may have the balance of the sentence that I have imposed restored as well as being dealt with for any further offence.

The conditions of the suspension will be as follows:

1. During the period of operation of the suspension, you be subject to supervision by Community Corrections and comply with all reasonable directions of that service including directions as to residence, employment and participation in rehabilitation programs and services;

2. In particular, you participate in such program at Banyan House as may be directed by your probation and parole officer, participate fully in it and do nothing to cause your early discharge from it;
3. During such period, you do not purchase, possess or consume illicit substances; and
4. During such period, you submit to such random urinalysis as may be directed by your probation and parole officer or a police officer.

Mr Christie, you should understand that bearing in mind the large quantity of drug involved in this, the sentence that I have imposed and the amount that I have required you to actually serve is very nominal. I simply really, consistent with my duty, have no other option but to proceed as I have this morning. But you must understand that if you get into further trouble either in relation to drugs or some other offence, then you can be called upon to serve the full sentence. Do you understand that?

THE PRISONER: Yes, sir.

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