

Settled by the Chief Judge 19/5/15 – For publication on the Internet
IN THE DISTRICT COURT
CRIMINAL JURISDICTION
ADELAIDE
TUESDAY, 19 MAY 2015 AT 9.04 A.M.
BEFORE HIS HONOUR THE CHIEF JUDGE
NO.DCCRM-14-2614
R v DANIEL JAMES MASON

HIS HONOUR IN SENTENCING SAID:

Daniel James Mason, you have pleaded guilty to trafficking in a controlled drug and unlawful possession. You committed both of these offences in the city of Adelaide on the night of Sunday 6 July 2014. The drug involved was MDMA, also known as ecstasy. The property was \$100 in cash.

The maximum penalty for your drug offence is a fine of \$50000, imprisonment for 10 years, or both. The maximum penalty for unlawful possession is a fine of \$10000 or imprisonment for two years.

When you were arrested by police you were cooperative with them and you admitted your offending. You pleaded guilty at an early time such that you are entitled to a discount of up to 30% of your sentence.

At about 10.30 p.m. on Sunday 6 July 2014 police were walking through a car park in the city. They stopped at the public toilets between the Dog and Duck nightclub and the Red Square nightclub. When they walked inside they saw two men talking to each other at the rear of the toilets. One of the men appeared to hand something to the other. The other then walked into a toilet cubicle. The man who appeared to have handed something to the other was spoken to by police. That man was you.

You were searched and police found a tin in your pocket. Inside it there were a number of pink tablets that police suspected to be ecstasy.

When the other man walked out of the toilet cubicle he was spoken to by police and searched. Police found six pink tablets on him. These matched those located on you.

Police took you and the other man to the Hindley Street Police Station. You were arrested after police interviewed you. They seized from you 55 pink tablets, your phone and \$100 in cash.

When police later searched the house where you lived they found nothing of interest other than a small bag of cannabis.

51 of the tablets police took from you were sent by them for forensic testing. From that testing it was estimated that the 51 tablets weighed a total of

15.3 g and contained a total of 1.74 g of MDMA. The tablet pieces and powder that were also found on you and were tested weighed a total of 1.56 g and contained MDMA.

You were just 19 years of age when you trafficked in ecstasy on 6 July 2014. You are now only 20 years old.

You were seen by forensic psychologist Mr Luke Broomhall on 12 February this year. That was for a forensic psychological assessment of you.

You were born in Adelaide. You did not know much about your biological father as you never really had much contact with him. You reported a very good relationship with your maternal grandparents who have been supportive of you following this offending. You described your mother in very positive terms and you reported that you now get along really well with your stepfather.

It appears that you got on well at high school until year 10 when you started behaving poorly. You had a bad attitude and you were suspended on several occasions. You remained at school and completed year 12. You did not, however, obtain the score you wanted.

After you left school you undertook a foundation course at the University of South Australia and obtained sufficient marks to gain entry to the Bachelor of Education degree. You had always wanted to become a physical education teacher. You deferred your studies and you now believe that as a result of these offences it is now impossible for you to become a teacher in the future. You are devastated by that. You cannot believe that you have been so stupid as to ruin your career.

You told Mr Broomhall that from about the age of 16 years you began using ecstasy more regularly and then you were going out on one to two nights each week, using 10 to 15 pills per night. You used to 'come down' from ecstasy by using cannabis as you could be a bit 'scrambled' after using ecstasy.

Since your arrest you have sought drug and alcohol counselling through DASSA. You have attended a couple of group sessions and three or four one-on-one sessions. These are focussed primarily on substance abuse.

You told Mr Broomhall that over the months preceding this offending you had increased your use of ecstasy. You had been buying the substance in larger amounts to sell to mates to cover the cost of your own use.

You told Mr Broomhall that following your arrest you had 'resolved any outstanding matters with (your) suppliers and had ceased contact with both drug-using peers and suppliers. (You) stated that (you) had no reason to see any of these people any more'. You told Mr Broomhall that you did not miss drugs too much but that you did miss the social aspects of partying in town with drug users.

Mr Broomhall's opinion is that it seemed likely that your 'personality had developed aspects of impulsive risk taking in (your) pursuit of pushing boundaries'. Your impulsive risk taking had 'continued throughout (your) late teenage years in the form of regular ecstasy abuse and eventually selling ecstasy to cover the cost of (your) own use'.

Mr Broomhall's opinion is that 'there were no mental health factors impacting on (your) decisions to use ecstasy over a period of years, meeting the criteria of stimulant use disorder. (You) seemed fully aware of the nature of (your) behaviours leading to (these) charges'.

In Mr Broomhall's opinion 'a positive and protective factor in (your) presentation seemed that (you) had shown an ability to learn from past mistakes', notwithstanding your having 'developed a personality style that was prone to adventurousness and risk taking and boundary pushing'. You seem to have learnt from your mistakes, particularly with the support of your mother, your stepfather and your grandparents.

Mr Broomhall judged that your risk of similar offending behaviour was in the low- moderate range without appropriate rehabilitation and intervention. His opinion is that rather than attending group and one-on-one sessions you 'would benefit more from being directly challenged from an experienced clinical psychologist, particularly in the areas of impulse decision-making, emotional regulation and excitement seeking by pro-social means'. He wrote 'setting educational and career goals aligned to (your) intelligence and career aspirations will serve as a protective factor against future similar offending behaviour'.

Your grandparents wrote to me. They obviously each have a strong bond with you. They regard you highly. They wrote that you know you have failed yourself and your family badly over this offending. They consider you have potential to have a good and rewarding career. Their letter was very helpful to me.

Your stepfather also wrote to me. He wrote of your being in constant employment since you were 14 years old. He wrote of your great interest in physical activities. He wrote that by your being on bail for this offending you have learnt 'that there is a life outside of what led (you) down the path' that brought you to this court.

I also received a testimonial from a football coach of yours who has spoken to you about these charges and your life. He believes you are sorry for what you have done and you do not want ever again to be in a position that you now are.

I was told during sentencing submissions that you may have an opportunity to pursue a fitness leader's course. You have made enquiries about enrolling in such a course through the Australian Institute of Fitness. You are awaiting the determination of these proceedings when you will also make enquiries about education in medical science or human physiology.

You reported to Mr Broomhall that you are unsure about your future employment direction as a result of this offending and your conviction for a drug offence. The drug that you were selling was ecstasy. That name sounds exciting and inviting, but it is a label used by people at the peak of the drug distribution network to encourage and to con young people to experiment in its use. They do that in the knowledge that experimentation is likely to lead to abuse, and then to an addiction. Thus the drug trade grows in size and profitability.

Let no-one think that ecstasy, which you were using and in which you were dealing, is anything other than a highly dangerous and addictive substance. The community now considers you to be a convicted drug dealer. You are likely to take that with you for the rest of your life. It is likely to haunt you in all sorts of aspects of your life, including future employment.

I was told that you began by using ecstasy in larger amounts to sell to your mates to cover the cost of your own use. The parents of your mates are likely consider you to be the drug dealer who sold the drug to their children which caused them to become drug addicts, if some of them have become drug addicts, which is likely.

It is a tragedy that so many young people we see in our courts develop impulsive risk taking in the pursuit of pushing boundaries which often lead to their deaths, or the death of their friends, in road accidents or to the destruction of their lives, or the lives of their friends, in drug abuse.

You have no prior offending as an adult. You appear to have been in constant employment all your working life and even before you left school. You are now working up to 30 hours a week in an area which is not your primary career choice. You still hope to pursue a career in physical education.

A sentence of imprisonment is the only appropriate sentence for trafficking in ecstasy.

I start with a single sentence of imprisonment for three years. I reduce that to a sentence of imprisonment for two years and one month for your early guilty pleas. I fix a non-parole period of imprisonment for one year and three months.

I am satisfied that sufficiently good reason exists to suspend that sentence of imprisonment. The particular factors that constitute good reason are your youth, your lack of prior adult offending, your family support, your work ethic, the fact that you have severed contact with drug-using peers and suppliers, and your acknowledgment that this offending is serious and is not something that you intend to repeat.

Your sentence will be suspended on condition that you enter into a bond to be of good behaviour for a period of three years from today. That bond will be subject to the further special condition that you be subject to supervision by a

Community Corrections Officer for a period of two years from today. You will obey all directions of that Community Corrections Officer.

The drugs and cash police seized from you will be forfeited to the Crown pursuant to the *Controlled Substances Act* and the *Criminal Assets Compensation Act* respectively.

Mr Mason, you will understand that the suspended sentence of imprisonment is one that you do not have to serve immediately. However, if you sign the bond that I have offered to you and you breach that bond by committing an offence of any sort, or by not complying with the conditions of the bond in other ways, you may have to be brought back to court and ordered to serve that sentence of imprisonment. Do you understand that?

ACCUSED: Yes.

HIS HONOUR: Are you prepared to sign a bond of that type?

ACCUSED: Yes.

BOND ACKNOWLEDGED
ADJOURNED 9.26 A.M.