

Mr Blake-Burles, you have pleaded guilty to one count of unlawfully setting fire to property.

The crime was committed on 31 March 2019. On that day, you set fire to a road rail excavator, that was used by Tas Rail for the maintenance of rail lines. The excavator was a rare and expensive piece of machinery. It was valued at \$756,800 and was one of only four of its type in Australia.

At the time that you set the fire, the excavator was parked on farm property near a railway line at Campania. You and a friend had been smoking cannabis and drinking beer. You decided to engage in activity which you refer to as trainspotting. Although this was your apparent purpose, it seems clear that you also contemplated damaging property if the opportunity presented. Your companion was in possession of a spray can of paint and you purchased firelighters early in the journey. Although you may have had a general intention to cause damage, in your case by setting a fire, it is accepted by the prosecution that you came across the excavator by chance, and made a spontaneous decision to set fire to it. You did so by inserting a fire lighter into a compartment at the back of the excavator, which was near a fuel line. Your counsel asserts that you did not appreciate the proximity of the fuel line and did not intend to destroy the machinery. It is asserted that your intention was to cause a fire which would be of nuisance value only. While I accept that you did not have a positive intention to cause a fire which would destroy the excavator, it is obvious that you did not give any real thought to the consequences of your actions. In actual fact, the fire completely destroyed the machinery and spread to nearby grassland. The extended fire was eventually extinguished by the fire service.

In the days following, you kept a close eye on social media and internet news sources with a view to accessing information concerning the outcome of the fire. On one level, this is consistent with your fascination with fire and its consequences, which I will discuss in more detail shortly. However, your counsel asserts that as you had not intended to destroy the excavator, you were in fact extremely concerned and fearful when you realised what had actually happened, because you knew that you had gone too far. Your counsel submits that you are now very remorseful, and points to your plea of guilty as a demonstration of this remorse. While I suspect that your subsequent interest in the fire probably arose from a combination of both reasons, I will proceed on the basis put by your counsel.

You are 27 years of age. You are the full-time carer of your infirm grandmother. On 18 February 2013, when you were 20 years old, you were dealt with by this Court for unlawfully setting a fire in a hospital. You were there visiting your grandmother, who was gravely ill. The fire was relatively small and was extinguished before it could cause much damage. The Court declined to record a conviction and placed you on probation. The judge noted that a psychologist had diagnosed a condition of pyromania. That is the only prior matter of significance on your criminal record.

I have been provided with a recently prepared report of a psychiatrist, Dr Ian Sale, together with some explanatory notes provided to me today. Dr Sale confirms the diagnosis of pyromania. He notes that this diagnosis is in the context of a psychological profile which includes a dysfunctional childhood, including living within a family in which you were exposed to violence and sexual abuse. He notes also that you may have a mild intellectual disability and that you are somewhat socially isolated. Dr Sale notes that the prospects for treatment of

pyromania, which is an impulse disorder, are poor, but recommends a rehabilitative approach. I also have been given a report from Dr Josephs, the psychologist who provided the Court with advice at the sentencing in 2013. It would appear that you are still receiving treatment from her. In addition to pyromania, she also notes conditions of ADHD, mild intellectual disability and anxiety related to social situations and bus travel. Both health professionals note that psychological therapy is of limited benefit only, but it is to your credit and consistent with your expressed remorse, that you have continued therapy with Dr Josephs.

I am satisfied that this diagnosis of pyromania, within the context of your overall psychological profile, does reduce to a modest extent your moral culpability for this crime. However, that consideration must be balanced against the fact that you had prepared for setting a fire by your purchase of the firelighters. This indicates a degree of premeditation which would suggest that you were not simply acting spontaneously under a poorly controlled impulse. Further, your poor prognosis, and the fact that this is obviously a long-standing problem, suggests that the sentence must consider the need to protect the public against a repetition of this conduct. It is in this respect that my assessment of your genuine commitment to rehabilitation is important.

I cannot overlook, however, that you committed an extremely serious crime with grave consequences. You destroyed a rare and expensive piece of equipment used for the public benefit. The cost of the damage was in the order of three quarters of a million dollars. I accept that you did not intend to completely destroy the excavator, but you were carelessly indifferent to those consequences. On the other hand, while the case is undoubtedly serious, it can be distinguished from other examples of this crime in which human life is placed in direct jeopardy. Having regard to this consideration and your personal circumstances, including your mental health, I am satisfied that although the crime deserves the imposition of a sentence of imprisonment, the various sentencing considerations can be properly met by a sentence which falls short of immediate actual imprisonment. As to the appropriate sentencing option, I note Dr Sale's view that participation in work or training may result in an increase in your social network and would be of benefit to your rehabilitation. In the circumstances, I think that a wholly suspended sentence, with conditions requiring the performance of community service and ongoing supervision, is appropriate in this case. I note that you have been assessed by Community Corrections as suitable for both of the said conditions.

Accordingly, the orders I make are as follows:

- 1 You are convicted of the crime to which you have pleaded guilty.
- 2 You are sentenced to a term of 18 months' imprisonment, which will be wholly suspended for a period of three years on the following conditions:
 - (a) That you are not to commit another offence punishable by imprisonment during that period.
 - (b) That you will perform community service for a total of 182 hours and, further, be subject to the supervision of a probation officer. You must comply with these conditions for a period of 3 years. That period will commence from today. The court notes that the conditions referred to in s 24(5B) of the Sentencing Act apply to these conditions. These include that you must report to a probation officer within 3 clear days of today. In addition to the core conditions, the order shall also include the following special conditions:

- (i) you must, during the operational period of the order, attend educational and other programs as directed by the court or a probation officer;
- (ii) you must, during the operational period of the order, submit to the supervision of a probation officer as required by the probation officer;
- (iii) you must, during the operational period of the order, submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;
- (iv) you must, within the operational period of the order ,satisfactorily perform community service, as directed by a probation officer or a supervisor, for the number of hours specified in this order, which is 182 hours.

3 I make the following compensation orders:

- An order in favour of the VEC Civil Engineering Pty Ltd in a sum to be assessed. I adjourn that assessment sine die.
- An order in favour of Pioneer Underwriting Consortium 9326 in the sum of \$615,275.