

The defendant, Mr Dougherty, has pleaded guilty to two counts of aggravated burglary, one count of burglary, three counts of stealing, one count of stealing a firearm and one count of unlawfully injuring property. These eight charges arise out of three separate incidents. First, on 19 October 2018, the home of Lucienne Copas and Alexander Fowler in West Launceston, was entered by the defendant and another offender. Ms Copas was known to the defendant. She had gone away that morning. Before entering the house the defendant drove to the property, knocked on the door and receiving no answer, returned to the vehicle, drove a short distance and parked in a nearby street. Having entered the house, the offenders stole a number of items of personal property including jewellery, electrical equipment and tools. That property was loaded into Ms Copas' vehicle which was parked in the driveway. The defendant drove it into the garage and closed the door while that happened. The defendant then drove the vehicle away. The property stolen included a 12 gauge shotgun, the property of Mr Fowler. Police investigations commenced. Ultimately on 22 September 2019, police recovered the motor vehicle, with the shotgun being recovered on 14 November 2019. Next, at about 7.15pm on 26 April 2019, the defendant and another man entered a workshop owned by Mr Vivian Lees. Three vehicles were stolen; a Mitsubishi flat-tray truck, Mitsubishi utility, and a Nissan skyline which seems to have been a racing car. Also stolen was a welding machine with accessories, and automotive related tools and items. CCTV footage showed the vehicles being driven in and around the area up to about 5am the next day. Those movements include about two return trips to the workshop. Next, on 29 April 2019, at about 3am Mr Lees' home was entered by the defendant. Entry was gained by forcing the garage roller-door causing some damage. Various rooms inside were searched by the defendant while Mr Lees and his family slept. The defendant was disturbed at about 3.15am by Mrs Lees and fled, taking Mr Lees' Toyota Landcruiser, the keys to which had been stolen by him from the workshop three days earlier. Some equipment that had been in the house was stacked near an internal door to the garage. However, the keys to Mrs Lees' vehicle had been stolen, and a few days later, someone attempted to take the vehicle from the driveway but it had been disabled. The Crown does not assert that this person was the defendant. In the ensuing days, the Mitsubishi truck was found, the defendant was seen driving Mr Lees' Landcruiser in Ravenswood and evaded police. Ultimately, on 3 May 2019 the defendant was found asleep in the driver's seat of the Landcruiser, then bearing Victorian registration plates. However, the defendant drove off and he again evaded police, eventually crashing the vehicle. He was arrested. He was found to be in possession of a number of the items that had been stolen, along with some sets of keys, and a set of Tasmanian registration plates. He told police where the utility could be found. That vehicle was later recovered with a key that had been found on the defendant. The vehicle's appearance had been changed since being stolen, with paint changes and false Tasmanian plates affixed.

The defendant is now 30 years old. He seems to have had a conventional and unremarkable upbringing and his family remain supportive. He has an entrenched substance abuse problem, commencing amphetamine use in 2012 while living in Melbourne. This use quickly descended into an addiction with daily use. At the height of methamphetamine use, he was using two grams per day at a cost of approximately \$500. Although with some trade skills he was not employed during the peak of his substance abuse. All of this may serve to explain his record of prior convictions. There are convictions for summary drug offences of possession and use in December 2015, December 2017, and June 2019. On that last occasion he was also convicted of offences of dishonesty – mostly committed between the first and second lots of this offending with which I am dealing – and of driving offences including two charges of evading

police, those two offences having been committed as I earlier described. On all matters the defendant was then sentenced to a total term of imprisonment of 12 months, backdated to 3 May 2019 when he was apprehended on these matters, with 6 months of that total suspended on conditions.

Returning to the defendant's drug use and its consequences, I was told that the defendant returned to Tasmania in 2013 and attempted to remove himself from the people associated with his drug use. He was not able to obtain any assistance when he returned and resumed methamphetamine use. He was self-employed until 2014, at which time he stopped because of that drug use. As to this offending, in October 2018 – the period relating to counts 1, 2 and 3 – the defendant had a drug debt of about \$5000. He was approached to be involved in committing the crimes and agreed to assist. It was a crime of opportunity in that sense. Although he had some of the items stolen, he did not have possession of the firearm. A similar scenario exists in relation to the balance of the offending. At the relevant time his drug debt was in excess of \$10,000 and he offended in the hope that he would obtain items to sell or barter so that he could pay off that debt. He was concerned about the consequences if he was not able to do that. In light of the history and the matters put I obtained a drug treatment order assessment report. The defendant is assessed as a very high risk of reoffending and has been deemed eligible and suitable for diversion. I am satisfied that the defendant has a demonstrable history of illicit drug use and that the drug use contributed to the commission of these offences. If I were not to make a drug treatment order I would sentence the defendant to a term of imprisonment and would not suspend that sentence, either whole or in part. There is no doubt that the offending is at a serious level. Entries to and thefts from homes and businesses cause distress to the victims. They show complete disregard for the rights and feelings of others. In particular, the theft of the firearm requires strong condemnation. Unregulated firearms in the community are linked to serious criminal conduct. Fortunately the firearm in this case was recovered. The defendant seems to have been involved with a group which was directing things. In general terms, the offending was planned and organised. A number of vehicles were stolen, with attempts to change identification evident. Factors of general deterrence and denunciation are important. There does not seem to be anything in the defendant's background to explain the substance abuse, so the addiction is of itself not mitigatory, but it provides an understanding of motive. In essence, the offending was to fund the addiction in the sense of paying off accrued debts owed for drugs. In all the circumstances, I am satisfied that a drug treatment order should be made. In ordering imprisonment and so setting the custodial part, I will take into account what is the precise period of 12 months spent in custody not attributable to the sentence served. Before proceeding to sentence, I make compensation orders in favour of Alexander Fowler and Vivian Lee, and adjourn the further hearing of those applications to dates to be fixed.

Mr Dougherty, there is no doubt that as I have said, this is serious offending. I have explained why that is. However, I think that for the time being at least the public interest rests more with your rehabilitation than what might be achieved by further immediate imprisonment. You are convicted of all matters, and subject to your agreement, I make a drug treatment order pursuant to s 27B of the *Sentencing Act* by which you are sentenced to a term of imprisonment of 9 months, all or any of which custodial part you will not be required to serve unless ordered to do so, or if the order is cancelled. That order will contain the core conditions as provided for in s 27G(1)(a)-(i) of the *Sentencing Act*. As to the core condition set out in paragraph (b) of that subsection which requires attending at court whenever the court directs, the first directed appearance is the Launceston Magistrates Court on 4 December 2020 at 2.15pm, and under paragraph (c) of that subsection you will have to report to a court diversion officer at

111 Cameron Street, Launceston by 5pm Friday, 6 November. Program conditions under s 27H of the Act will be as follows:

- 1 You must submit to drug testing, including random drug testing, urinalysis and oral fluid testing, as required by the case manager or court diversion officers.
- 2 You must submit to detoxification or other treatment, whether or not residential in nature, as directed by the case manager or court diversion officers.
- 3 You must attend vocational, educational, employment, rehabilitation or other programs, including the EQIPS program, as directed by the case manager or court diversion officers.
- 4 You must submit to medical, psychiatric or psychological assessments or treatment as directed by the case manager or court diversion officers.
- 5 You must live at [...] and not change that address without the prior approval of the case manager, a court diversion officer, a judge of this Court or a magistrate, and you must be present at that address between the hours of 10pm and 7am each day unless otherwise expressly authorised by the case manager or court diversion officers.
- 6 You must not use any illicit drugs or substances.
- 7 You must not use any prescription or non-prescription medication unless prescribed by a treating doctor or recommended in writing by a pharmacist.
- 8 You must attend counselling and/or mental health treatment as directed by the case manager or court diversion officers.
- 9 You must maintain the use of a working mobile phone in order to send or receive messages about drug testing, case management and/or counselling appointments from your case manager and court diversion officers, and you must remain contactable at all times.

[The defendant was asked if he consented, and he agreed to the making of the order and the treatment and supervision conditions.]

I make the order in those terms.