

STATE OF TASMANIA v KYLE RICHARD DUPREE
COMMENTS ON PASSING SENTENCE

10 NOVEMBER 2020
ESTCOURT J

The defendant, Kyle Richard Dupree, has pleaded guilty to one count of arson.

At 11:00pm on 18 March 2019, the groundsman at Kingston High School attended the school after a fire alarm was activated. On arrival he noticed the southern side of the building, known as Our Space Learning Centre, was on fire. He was aware that about three timber pallets had been placed upright against the south facing wall. Close by was a galvanised shed.

Police and Fire services were in attendance. The fire had taken hold of the pallets and set fire to the classroom block, which was of iron construction. The fire entered into the roof and inside the class room. It was extinguished relatively quickly, but not before it caused considerable damage to the classroom and smoke damage to equipment in the class room.

As part of the police investigation, "Snapchat" communications from witnesses were discovered, which were sent by the defendant in the name "Joshua Jackson". One of the Snapchat communications was a video filmed within the school grounds, with the sound of the fire alarm in the background. Text was laid over the video which said *"left u a little present Kingston High"*. The defendant later told police that when he realised the fire had got quite bad he decided to be a "show pony" about it

The defendant took part in a video recorded interview in which he told police that he was mucking around and walking around Kingston High School and he set a brown paper bag on fire at the pallets, he didn't think much of it as it went out.

The Crown accepts that the defendant did not intend to set fire to the building, but asserts that he was reckless as to that consequence.

The defendant is 20 years of age and lives with his family in Kingston, comprising his parents, older brother and younger sister

After completing Grade 10 in 2016, he decided to pursue a career as a Chef and began an apprenticeship, with practical experience offered at the Beach Restaurant and training at Drysdale House. Upon completion of two years of the four year course, he opted to take a break and worked for his parents at one of their restaurants. In mid-2019, he gained employment at a restaurant, which ended at the commencement of the COVID-19 lockdown period in March 2020.

As related to police, the defendant explains that he had been lighting a paper bag near the pallets, that he had no intention to cause a fire and expresses surprise that it was in fact possible, given the construction of the building, being clad in corrugated steel. He accepts however that he ought to have considered the possibility of a charred paper bag igniting and starting a fire

The defendant is a youthful offender and has limited prior convictions. Leaving aside a caution as a child for a destroy property offence, his involvement in this crime might be described as out of character.

I have had the benefit of a pre-sentence report. The defendant is deemed to be suitable for a home detention order.

Arson is always a serious crime. The reasons are obvious.

The defendant is convicted and sentenced to 12 months' home detention.

All of the core conditions contained in s 42AD(1) of Part 5A of the *Sentencing Act 1997* are imposed.

With regard to s 42AD(1)(g) and (h), the following conditions are included in the Order:

Mr Dupree:

- 1 you must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device.
- 2 during the period that you are required to submit to electronic monitoring:
 - (a) you must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.
 - (b) you must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.
 - (c) you must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, including in relation to the installation, attachment or operation of a device, or a system, used for the purposes of electronic monitoring by:
 - i a police officer;
 - ii a probation officer or proscribed officer; or
 - iii another person whose functions involve the installation or operation of a device, or a system, used for the purposes of electronic monitoring.

The following conditions are also included in the order:

Mr Dupree:

- 1 you must, during the operational period of the order, remain at [address specified] at all times unless approved by a probation officer.
- 2 by 10.00am tomorrow morning you must attend the Community Corrections office at Highfield House for induction onto this order.
- 3 you must, during the operational period of the order, maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times.
- 4 you must submit to the supervision of a Community Corrections officer as required by that officer.
- 5 you must not, during the operational period of the order, take any illicit or prohibited substances. Illicit and prohibited substances include:
 - (a) Any controlled drug as defined by the *Misuse of Drugs Act 2001*.

- (b) Any medication containing an Opiate, Benzodiazepine, Bupropion, Hydrochloride or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication.