

STATE OF TASMANIA v AIDEN MICHAEL JAMES SPAULDING 29 MARCH 2021
COMMENTS ON PASSING SENTENCE **PORTER AJ**

The defendant, Mr Spaulding, has pleaded guilty to one count of unlawfully setting fire to property. On 2 July 2020 Mr Spaulding was remanded in custody in respect of a charge, and put in the Hobart remand centre. He was allocated a cell on level 4. At about 7.30pm on 8 July 2020, he set fire to plastic items and several items of clothing in his cell. He did this by rolling up two foil lid coverings from condiment containers and making them into two prongs. He then put the two prongs into the power socket located on the desk in his cell, and switched the power on. This caused an arc. The resultant fire intensified and spread from the clothing onto the mattress in the cell, activating the smoke alarm. The sprinkler above the cell door activated and extinguished the fire. When correctional officers went to the scene, they saw a high volume of water flowing from under the door of the defendant's cell. He was heard yelling words to the effect of "get me out of here". He was handcuffed through the door hatch and then removed from the cell without further incident. About 8 to 10 other inmates on level 4 were evacuated from their respective cells due to the whole of the level being flooded. All in all an estimated 1.5 tonnes of water were spread across the floor of level 4 to a depth of about three centimetres. Significant water damage was caused to that level as well as the ceiling of the level below. The fire destroyed a number of items of clothing, bedding, a mattress and plastic items. The total value of the fire and water damage is \$9,261.85. When interviewed, the defendant said the water in his cell had been switched off as a result of which he could not drink water, shower or flush the toilet. He said he had previously complained about this, but nothing had been done so he lit the fire. He used a spoon with shampoo in it to assist in creating the electrical arc. He intended to start a fire which would set off the smoke alarm and force officers to attend so that something would be done about the lack of water. As to the water damage, there is an unresolved argument between the prosecution and the defendant about whether there was a damaged fire sprinkler in the cell which caused a far greater flow of water than otherwise would have been the case. The parties seem to agree that whatever the situation with the sprinkler, it is accepted that the defendant did not intend or foresee the water damage that was in fact caused, but that some water damage was reasonably foreseeable.

The defendant is now 23. He has a very lengthy record for a man of his age. Primarily the record relates to offences of dishonesty although he has three prior convictions for damaging or injuring property. There is nothing fire-related. On 29 June 2020 he was made the subject of a drug treatment order in relation to offences of dishonesty. By way of resentencing for earlier offences of dishonesty an additional custodial part was awarded, the total custodial part being 10 months. On 22 September 2020 it was ordered that he serve 9 months and 2 weeks of that custodial part, apparently credit having been given to him for some efforts at compliance. It seems that the treatment and supervision part was not cancelled. I was told that the defendant had some hope of pursuing rehabilitation through this means, but he ultimately withdrew his consent as it appeared pointless. The sentence of 9 months and 2 weeks was backdated to 10 February 2020. He remains in custody and it is agreed that there is unallocated time in custody from 23 November 2020. The defendant is a single man with no children. His parents separated when he was 15. That separation was an acrimonious one involving disputes over children and assets. This deeply affected the defendant. It seems he turned to his peer group for support. He started using cannabis in grade 9 and found he could not cope at school. He left school at the beginning of year 10 but completed that year by way of an alternative learning program. His regular cannabis use increased in his late teens and extended to the use of Ice. He accepts that substance abuse is central to his offending. As to this offence, I was told that the remand centre had been undergoing renovations for a few days. There were various times when the water had

been turned off. He had complained about this. I was told that he believed the water was off at the relevant time, although he accepts that that might not be right. It is accepted that regardless of his grievances, real or perceived, his response was not acceptable. He says his motivation was to attract attention to his plight, but does not seek to excuse his behaviour. Apparently he had learnt the method of starting a fire from another inmate. A plea of guilty was indicated at an early stage but the delay in finalisation has been due to the issue about the operation of the sprinkler and the consequent water damage. The plea was entered when matters were resolved. I was told that the fire was extinguished within a relatively short time, the major problem being the water. He was co-operative and was removed from the cell without incident. As a result of his behaviour he was moved to the maximum security unit in Risdon for 14 days, during which he was mostly in isolation. He is now housed in a medium to low risk unit and works in the kitchen.

As to the offence, setting fire to bedding and the like in prison cells creates a risk for prison officers and other inmates. It places unnecessary stress and burdens on prison officers. Events such as this defy and disrupt the orderly prison management. In this case, a significant disruption was caused. I accept that the water damage was not intended nor foreseen, but proceed on the basis earlier outlined; that some water damage was reasonably foreseeable. General deterrence and denunciation remain important factors. I take into account the defendant's personal circumstances and his plea of guilty, noting that the delay in resolution was caused by a dispute about the proper approach to the facts. I take into account the length of the term which he has served and that he has already suffered as a consequence of his actions to a degree, by way of spending time in maximum security.

Mr Spaulding, I have set out the facts and what I see to be the relevant circumstances. In my view, a term of actual imprisonment is necessary. You are convicted and sentenced to 5 months' imprisonment to commence on 23 November 2020. I make a compensation order in favour of the State of Tasmania in the form of Tasmanian State Prison Service, in the amount of \$9,261.85.