

Heath Lethborg, you were found guilty by a jury of five counts of receiving stolen property. You were acquitted of the remaining three counts on the indictment. Subject to the verdict and the issues at trial, it is for me to find facts for sentence.

On 1 May 2019 the police searched the property at St Leonards which you then occupied. You leased a part of a large industrial area consisting of various sheds and yards. For at least some of the time you lived in a room within the largest shed on the area you leased. A large amount of material was stored there including vehicles, vehicle bodies and parts and disused plant and machinery. The police found a Mitsubishi Canter truck, a bobcat, an ATV trailer, a black tandem tool trailer and a case containing a commercial lighting system. All of those items were stolen. Subject to one matter concerning the lighting system, there was no issue that all were in your possession. At trial you claimed not to know that any of those items were stolen. It follows from the verdicts that, in respect to those items, the jury rejected your account. It was not the prosecution case that you had anything to do with the thefts.

The truck had been stolen on 26 April 2019 from a business in Youngtown. The owner had purchased it new in 2005 and had a tip tray made to specification and mounted on the chassis. By the time the police found it at your premises it had been fitted with registration plates and a VIN plate removed from another truck you owned. The VIN marked in the chassis of the stolen truck had been ground off and replaced with a VIN matching the plate amateurishly stamped in the same area. It was very obviously false. Parts of the chassis and body work had been repainted. When the police came on 1 May you claimed that the truck was a rebuild of the one you already owned and brought to the yard by another person. They subsequently established that it was in fact stolen and returned a few weeks later. You maintained your story, but you knew it was false. The other truck was still in your yard, and the false VIN stamp could only have come from the plate which you admitted was in your possession until after the stolen truck was delivered. The stolen truck was recovered and, afterwards, through the insurance company, sold at auction for \$14,000. No doubt it was worth more than that to the owner.

The bobcat was stolen on 1 May 2018. You claimed to have purchased it for \$28,000 in cash from a man in St Marys named Duggan and that you planned to use it yourself for contract excavation work. The jury rejected your account, as I do. I cannot be satisfied beyond reasonable doubt that you did not pay something for it, but I regard your evidence of having accumulated cash for the purchase as implausible and unsupported by the evidence. You could not further identify the man you bought it from, or contact him, and you told the police that the machine came without a key. Like the other things at your yard, it had been painted entirely black. I have no information about the value of the excavator but the photographs of it indicate that it is likely to be of considerable value. It has been returned to the true owner, although it had been painted black in the meantime.

I would sentence you on the basis that the other stolen items, the two trailers and the lighting equipment, although in your possession, were brought there by others and were not for your personal benefit. As you all but accepted in your evidence, the items were obviously stolen, having been brought there by men you knew to be dishonest. The lighting equipment falls to be considered differently. It was in a case inside one of the vehicles in your yard. You were aware of the case. As the jury was directed, it follows from the verdict that you knew that something was in the case and believed that, whatever it was, it was stolen and likely brought there by the

same dishonest men. I cannot be satisfied beyond reasonable doubt that you knew it was lighting equipment. I have no indication of the value of the trailers. One was specialised for an ATV. Both appear to be of substantial value. Nor have I been made aware of the value of the lighting equipment. It and the trailers have been returned to the true owners.

You are now aged 42. You have no prior convictions for dishonesty. You have some drug related convictions which reflect the fact that you have abused illicit substances from time to time. However you have an industrious background. You formerly operated the family smallgoods business before it was sold some years ago. Regrettably the proceeds of that sale and other property sales, I am told, have been lost for various reasons including marriage breakdown, and that your financial circumstances are now much reduced. You are not entitled to the mitigation that a plea of guilty to all of the counts you were found guilty of. However you were acquitted on some counts and I think it is in your favour that your offer to plead guilty to four of the five counts was rejected by the State. I regard the one count you did not offer to plead to, concerning the lighting, as of little overall consequence in terms of sentence.

I accept that your possession of some of the stolen property resulted from your association with criminals, but that is not the case with the two most valuable items, the truck and the bobcat. I sought a pre-sentence report to determine your suitability for community based orders. It determines that you are suitable for community service but that you are not suitable for supervision due to an absence of criminogenic needs able to be targeted by Community Corrections. However that assessment was based on your version of the facts which was rejected by the jury. Receiving is serious because purchase of stolen goods encourages theft. For that reason it generally attracts a sentence of imprisonment. I consider that a sentence of imprisonment is required. However in all the relevant circumstances, including your lack of prior convictions, I will wholly suspend the term on condition that you perform community service and submit to supervision to address drug use and your past association with criminals.

Heath Lethborg, you are convicted on the indictment, counts 1, 2, 4, 6 and 7. I impose one sentence. You are sentenced to imprisonment for eight months. I wholly suspend that term for two years from today. It is a condition of that order that while it is in force you do not commit any offence punishable by imprisonment. If you breach that condition then a court must order that you serve that term unless it is unjust. I impose a special condition that, within the two year period the order is in force you perform 98 hours of community service. I impose a further special condition that for a period of 12 months from today you are to be subject to the supervision of a probation officer and that during that period you attend educational and other programs, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.

There will be conditions which the law imposes on the orders that I have made also that you must report to a probation officer at 111-113 Cameron Street, Launceston on or before 5pm on 14 April 2021, you must, during the operational period of the order, report to a probation officer as required by the probation officer and comply with the reasonable and lawful directions of a probation officer or a supervisor, you must not, during the operational period of the order, leave, or remain outside, Tasmania without the permission of a probation officer, and you must, during the operational period of the order, give notice to a probation officer of any change of address or employment before, or within 2 working days after, the change.

If you breach any of the conditions I have stated you may be brought back to Court and re-sentenced.