

Mr Maynard, the defendant, has been found guilty by a jury of two counts of burglary, two of stealing, two of stealing a firearm and three of unlawfully injuring property. These charges arise from two separate break-ins at a residential property in Young Town, firstly on or about 20 October 2018, and secondly during the Easter period of 2019 – 18 April to 20 April. On each occasion, a garage/storage shed attached to a house occupied by Craig Burrows and his wife was entered; goods were stolen and property damaged in the process. On each occasion the occupiers were away. The garage/shed had a fold-up garage door facing a street and a side door entrance. Before going further, I should note that no one else has been charged with these offences but I am satisfied that the defendant was not on his own. On the first occasion, entry was gained through the side door. This appears to have been a simple task of using the key which Mr Burrows was then in the habit of attempting to secrete under a nearby shrub. By use of the tools found in the shed area, a firearm safe was attacked and pried open. Five complete firearms were taken. They were a 410 double barrel shotgun, a .17 calibre rimfire repeater rifle, a 30-06 calibre bolt action rifle, a 12 gauge double barrel shotgun and an air rifle. A chainsaw, a small safe, some ammunition and a gun bag were also stolen. About six months later, offenders, including the defendant, again entered the garage/shed. In the meantime, Mr Burrows had reinforced the side door by installing a mesh security door on the inside. This time, it appears that entry was first attempted through the side door but finally achieved by way of pushing up the bottom folding panels of the garage door. This caused damage. The door could then be operated from the inside. The mesh security door was forced open using tools, and the side door opened. Also in the meantime, Mr Burrows had replaced his firearms, and a new larger firearm safe had been installed next to the previous one which remained in its place. The new safe was bolted to a cement floor and to the wall. The offenders cut the securing bolts and removed the safe. An attempt was made to again break into the first safe which had been repaired. Amongst the items stolen was a tandem trailer and it seems obvious that the trailer was used to carry away the safe. The firearms stolen were a .223 repeater rifle, a 30-06 repeater rifle, a 410 gauge shotgun, a .177 repeater rifle, a double barrel 12 gauge shotgun and an air rifle. In addition to the firearms, the safe and the tandem trailer, the offenders stole a chainsaw, brush cutter, fishing equipment, ammunition, three CB radios, a knife, two trigger locks and a pair of boots. While in the garage/shed, the offenders obviously attempted to steal a quad bike by trying to activate the ignition. That caused damage to the bike and the ignition system. Of all that was stolen, all that has been recovered is the trailer, a double barrel shotgun, a centre fire rifle, a gun bag and the radios. The defendant was arrested on 22 October 2018 and made no admissions when interviewed. The Crown case at trial on all counts was based solely on what was, in effect, his DNA being found on tools used in relation to opening the safes. The impact on the occupiers, particularly Mrs Burrows, has been significant. She is reluctant to leave the house unattended at all. She seems to be hyper-vigilant about cars entering the street. Beforehand, the couple used to go away on most weekends but now do so only occasionally. When they do so they check the vision from cameras that have been installed. Both have become obsessive about security. They are worried about the unlawful use of the firearms that were stolen. About \$8,500 has been spent upgrading security at the property. Mr Burrows has given up his long-time hobby of recreational shooting due to fears about firearm storage on his property.

The defendant is now nearly 28 years old; about 26 at the time of the last incident. He has a record of traffic offences starting in January 2010. The seriousness of these escalated to the point of driving whilst disqualified in June 2019. On 5 December 2019 he was dealt with in the

Magistrates Court for a number of offences of varying types, including driving whilst disqualified. Of particular relevance are convictions for one count of aggravated burglary, two of burglary, three of stealing, two of unlawful possession of property and one of motor vehicle stealing. The stealing and unlawful possession charges relate to building equipment and materials. The date range for the dishonesty offending is January 2017 to October 2019. Accordingly, it predates, encompasses and post-dates the dates of the present offending. I will return to the subject of this offending. The sentence imposed in December 2019 was a global one of 45 days' imprisonment backdated to 22 October 2019 when the defendant was taken into custody for these and other matters. He was also made the subject of a community correction order for 12 months to commence immediately. The defendant had not previously been sentenced to imprisonment, either by way of wholly or partly suspended terms or immediate terms. I have had the benefit of counsel's submissions and a community corrections report dated 18 January 2021. Further relevant personal circumstances are as follows. The defendant had an unremarkable upbringing and has a close and supportive relationship with his parents. He is in a relationship of some three years' duration. He was educated to grade 10 standard, completed a TAFE course in mechanics and worked for a time before taking on work as a plasterer, which he did for about eight years. The loss of his driver's licence saw him lose that job and he has essentially been unemployed since, although does small jobs as and when he can. He started to use cannabis in 2015 but turned to methylamphetamine use in, I was told, about 2018, although there is some evidence that it might have started a little earlier than that. In any event, by mid-2019 his use had become relatively heavy. He had incurred and was incurring drug debts. I was told that, apparently at the hands of those to whom money was owed, there was an arson attack on his parents' house and theft from his parents' vehicles. The motivation for the offences of dishonesty referred to earlier – and, I expect the present ones – was to obtain funds to discharge drug debts. Of significance is the fact that I was told the defendant has been completely drug free for quite a few months leading up to his trial and before being taken into custody at its end. The defendant told the probation officer that he has stopped the use of illicit substances and no longer has contact with old associates. The probation officer has advised the defendant is suitable for home detention with appropriate conditions, as well as community service and supervision, also with appropriate conditions.

These are serious crimes of dishonesty. Leaving aside the question of the thefts of firearms, entries into and thefts from homes cause distress to the victims. They show a complete disregard for the rights and feelings of others. In this case, the same property was targeted twice, although the residence itself was not entered. Thefts of firearms require particularly strong condemnation. Unregulated firearms in the community are linked to serious criminal conduct. Clearly, the primary target of both intrusions was the firearms. Much effort was put into the thefts. The defendant seems to have taken an active role, but I am not able to say that he was an organiser. Only 2 of the 10 firearms stolen were recovered. General deterrence is a prominent factor. I take into account the defendant's relatively young age, that he had not in fact been convicted of dishonesty offences before these matters, and that his work record up until such time as he lost his employment, something for which, he of course was really responsible. That point in time seems to generally coincide with his escalation of drug use, the pressure of drug debts and the association with criminal elements. I take into account in his favour that he seems to have been able to rehabilitate himself in terms of his substance abuse. I also take into account, as I earlier alluded to, that these offences seem to be part of a course of conduct of dishonesty, and that the defendant has served a short term of imprisonment which encompassed that other dishonesty. At the same time though, that means that he was not of good behaviour after the last of these incidents. He has been in custody on these matters since 11 December 2020. That needs to be properly accounted for. The charges now faced arise from

almost identical events but separated by about six months in time. In light of the views I have reached, and in light of s 8 of the *Sentencing Act*, I do not think a global sentence in respect of all counts is appropriate. I will impose orders in respect of separate sets of counts, that is, the separate incidents, bearing in mind the overall operation and effect of the orders.

Mr Maynard, I have set out the essential facts and what I see to be the relevant considerations in your case. You are a relatively young man who seems to have completely lost your way following the loss of your employment and the escalation of your drug use into methylamphetamine use. I accept that you have demonstrated a capacity to overcome that issue. All things considered, you will not immediately have to spend any further time in prison, but you will remain at risk of further imprisonment and you will also have to suffer a form of imprisonment, but not in the corrosive environment of a gaol. You are convicted of all matters. On counts 1 to 4 inclusive, you are sentenced to 10 months' imprisonment to commence on 11 December 2020, the balance from 25 January 2021, that is next Monday, is suspended on conditions you do not commit any offence punishable by imprisonment for a period of two years, and that you perform 160 hours of community service. In effect that gives rise to a community correction order. The operational period is 30 months to commence on 25 January 2021. The statutory core conditions will be set out in writing. You will have to report to a probation officer at 111 Cameron Street, Launceston immediately upon your release on 25 January 2021, if contact with a probation officer has not been made between now and that time. Special conditions of that order are that:

- 1 You must attend educational and other programs as directed by a probation officer.
- 2 You must submit to the supervision of a probation officer as required by the probation officer.
- 3 You must undergo assessment and treatment for drug dependency as directed by a probation officer.
- 4 You must submit to testing for drug use as directed by a probation officer.

On counts 5 to 9 inclusive, with your consent I make a home detention order, the operational period of which is 12 months to commence on 25 January 2021. The statutory core conditions of the order are those contained in s 42AD(1) of the *Sentencing Act* 1997, with the exception of subs (1)(j) which does not apply in the circumstances. Those conditions will be set out in writing. I specify the home detention premises for the purposes as [home detention premises]. Special conditions of the order are as follows:

- 1 You must appear before a judge of this Court in Launceston at 4.15pm on Monday, 22 March 2021 for a review of this order.
- 2 In relation to electronic monitoring, you are not to allow anyone else to tamper with, attempt to remove, or to damage or disable any device used for the purpose of electronic monitoring. (I pause to observe to you Mr Maynard that one of the core conditions is that you are not to do any of those things, so this condition is that you are not to allow anybody else to do any of those things.

- 3 You must maintain in operating condition an active mobile phone service, provide the details of that to a probation officer or prescribed officer, and be accessible for phone contact at all times.
- 4 You must not take any illicit or prohibited substances including any controlled drug within the meaning of the *Misuse of Drugs Act 2001*, and any medication containing an opiate, benzodiazepine, bupropion hydrochloride or pseudoephedrine without a prescription from a medical professional, proof of which prescription must be provided by you on the demand of a probation officer.

Because of the orders I have made in respect of counts 1-4, there is no need for me to make any further conditions, or any further orders, in relation to these counts.

Lastly, I make a compensation order in favour of Craig Phillip Burrows and adjourn the further hearing of that to a date to be fixed.