

Jonathon Henry Holmes has pleaded guilty to one count of stealing a television on 10 July 2019. At that time the complainant, Benjamin John Ward, aged 43 was living at a unit complex at 26 Windsor Street in Glenorchy. The defendant was also living at that unit complex.

At approximately 7:25am the complainant was sleeping on a couch in front of his television. He woke to find the front door to his unit being kicked in and two males, Stephen Hunt and Tyler Causon, entered the unit. The defendant, Mr Holmes, followed the two males inside. While the defendant had been in their company in the lead-up to their arrival, he was not present when the door was kicked in. Mr Hunt demanded to know where the complainant's computer was, and then Mr Hunt assaulted the complainant with a tomahawk-like object. The defendant heard raised voices, but he was not present, and was unaware that the complainant was assaulted or that Mr Hunt had with him a weapon. The complainant pushed Mr Hunt into an adjoining room and at the same time Mr Causon and the defendant picked up the complainant's television and left with it. As they were leaving, the complainant tried to stop them but Mr Hunt followed the complainant and swung the tomahawk at his back. The defendant was not aware of that violence. After the defendant, Mr Causon and Mr Hunt had left the unit the complainant called an ambulance and was taken to hospital.

Later that morning, the defendant and Mr Hunt were arrested by police at Mr Hunt's unit. A search was conducted and the television was found in a communal laundry of a block of units adjacent to where Mr Hunt was living. The television was returned undamaged to the complainant.

The defendant was interviewed by police and admitted walking to the unit with Mr Hunt and Mr Causon and entering the unit, but he denied stealing anything.

The State accepts that the defendant was not a party to the violence or any plan to steal. Rather, he followed Mr Hunt and Mr Causon into the unit and then once inside, formed an intention to steal.

The defendant was 26 years of age at the time of offending, he is now 29 years of age. He has quite an extensive history of offending involving some serious offending as a youth, and relatively low level but extensive offending as an adult including possession and use of drugs, breaches of bail, breaches of court orders such as probation orders, stealing, fail to comply with direction of a police officer, trespass and resist a police officer. He committed an assault in December 2018. Since committing the crime of stealing before the Court today, he has offended again in 2020 and 2021, committing multiple offences of dishonesty, unlawful possession of property and other offences. He has been serving a term of six months' imprisonment for that offending. In October this year, he was sentenced for other similar offending to 6 months' imprisonment, and an additional period of four months' imprisonment for an assault committed in September 2021, and he is not due for release until approximately April next year. There is presently some uncertainty about the date due to an application to correct the sentence he is currently serving.

I have a report from forensic psychiatrist Dr Michael Jordan dated 1 November 2021. The defendant has schizophrenia and is currently the subject of a treatment order pursuant to the *Mental Health Act*, primarily to augment treatment of his condition. He has had multiple

admissions to the Royal Hobart Hospital since August 2016 presenting with psychotic symptoms. His treatment is difficult because of an ongoing pattern of methamphetamine use. When in the community he spends considerable periods of time intoxicated with cannabis. He spends most of his money on illicit substances and his self-care is poor. There is no available neurocognitive testing, but according to Dr Jordan it is evident that the defendant is cognitively compromised. Further, the combination of an intellectual disability and amotivational syndrome, associated with the defendant's schizophrenia, characterised by insidious cognitive decline and diminishing self-care, leaves him deskilled and functionally incapable. He is susceptible to the influence of others. Soon, the defendant is to be assessed by National Disability Insurance Scheme, and it is likely that supported accommodation will be recommended. The defendant needs extended drug rehabilitation but so far there are no signs of any motivation on his part, in fact at this stage he seems wedded to cannabis use.

The defendant has been assessed by community corrections as being a very high risk of recidivism if he does not receive structured support. He is regarded as needing close supervision focussed on coordination of services between the Alcohol and Drug Service on referral, the NDIS if put in place and the Royal Hobart Hospital mental health unit to provide ongoing treatment, and psychiatric treatment and psychological therapy. I accept that supervision and an intensive allocation of supports is essential to address his risk of reoffending.

I also take into account the defendant's plea of guilty, albeit at a late stage. He has spent time in custody attributable to the original charges on this indictment, from 1 February to 2 July 2020, involving 153 days.

Given all the circumstances of this case, I have determined that the appropriate sentence is a community correction order.

I record a conviction and impose a community correction order for 18 months to commence on the defendant's release from the prison sentence he is currently serving. If not for this sentencing option a wholly or partly suspended sentence of imprisonment would have been imposed. The statutory core conditions of a community correction order are imposed. These include that the defendant must not during that period of 18 months from the date of his release, commit an offence punishable by imprisonment. He must report to a probation officer or supervisor at 114 Bathurst Street, Hobart no later than 5pm on the day following his release from prison. He must report to a probation officer as required by a probation officer and comply with the reasonable and lawful directions of a probation officer or a supervisor. I also impose the following special conditions:

- During the operational period of the order, being 18 months from release from prison, you must submit to the supervision of a probation officer as required by the probation officer;
- You must comply with directions regarding compliance and engagement with Alcohol and Drug Service, mental health services and with referrals pursuant to the National Disability Insurance Scheme.
- You must undergo assessment and treatment for drug dependency as directed by a probation officer;
- You must submit to testing for drug use as directed by a probation officer;

- You must, for the duration of the operational period of the order, submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.