

Mr Smith you have pleaded guilty to a single count of arson. In September 2022, you resided at a unit located at 237 Barossa Road in Glenorchy. The residence was a Housing Tasmania property, owned by the Department of Health and Human Services. You had resided there as a tenant since 29 April 2022. The residence was a single bedroom, single storey residential unit within a complex of 52 units. It was conjoined with one other unit, separated by a double brick firewall.

At the time of your offending, you resided there with a Bree Frawley. On or about 1 September 2022, you consumed a significant quantity of methylamphetamine. In the morning of 2 September 2022, you were still under the influence of that drug. Ms Frawley attempted to leave the residence. You did not want her to leave as you were concerned for her safety, because she would be in danger due to “little green men running around”. At approximately 11 am that day, you asked her if you could use her phone to call triple zero.

You called triple zero and reported that you were going to blow the house up. You said to police there were “freaky men” at the unit, “12 men with guns”. Constable Michael McColl and Constable Leigh Bailey attended the residence. They observed you inside the unit and spoke with you. Constable McColl observed a second person inside the unit, being Frawley. After a short period of time, Frawley exited the residence via the lounge room window. Police continued to attempt to negotiate with you, asking you to come and talk to them at the front door.

Sometime after this, you lit fire to the couch in the lounge room. Constable Bailey noticed this and he attempted to forcefully enter the residence via the front door. You opened the door and were arrested and restrained by Constable Bailey. Police saw you holding a yellow lighter when you opened the door. It was located later on the ground, outside the residence. Constable McColl entered the unit to make sure no-one else was there and attempted to extinguish the fire, but it was beyond his capabilities, due to its size.

The smoke and flames spread quickly throughout the lounge room and the rest of the unit. Tasmania Police evacuated occupants from surrounding units for their own protection. Tasmanian Fire Service arrived at the residence at 11.35 am. The fire was brought under control, contained to the residence and extinguished. The residence was, ultimately, destroyed. The damage caused by the fire has been estimated at \$350,000. You were conveyed to the Hobart Police Station and held in custody, pending further investigations.

On 3 September 2022, you participated in a recorded video of interview. Under caution, you said that you had been off your medication for five days and been using ice. You said that you had no memory of the fire or of the day. You said that you should not be in gaol, you should be in a mental health facility.

Following the interview, you were charged and detained for Court. Tasmanian Fire Service fire scene examiner, Tim McKay, attended the scene and concluded that the fire originated from the couch situated in the lounge room. He concluded that the fire was deliberately lit. There was no information or evidence to suggest the fire was associated with a chemical, mechanical or natural ignition, or any evidence to suggest it was accidental.

I turn to say something about you.

You are 46 years old and you are currently single. You had a relationship of some 27 years duration and have four children from that relationship and two grandchildren.

You have a continuing relationship with all them

For most of your life you have been employed, working in the cleaning and construction industries. Prior to going into custody for this matter you were working two to three days per week as a farm labourer. You have employment available to you upon your release.

I have a report from Dr Jordan. He presents a complicated mental health profile and says your mental health condition has been exacerbated by excessive drug use. That drug use increased throughout 2022 resulting in a significant deterioration in your mental health. At the time of the offending you are on anti-psychotic and anti-depressant medicines and you were regularly experiencing drug psychosis.

Your condition led to a number of suicide attempts.

Your drug use has exacerbated your mental health condition and I accept Dr Jordan's opinion that you lacked insight into the effect of your drug use on your mental health. You accept by your plea that your condition provides no defence to this charge.

In 2013 you completed a court mandated drug programme and remained clean for a period of six years. Your drug use appears to have resumed upon the breakdown of your relationship. Your drug of choice is methylamphetamine and throughout 2022 you spent approximately \$500 a week on that drug. This escalated in August 2022 when I am told you spent approximately \$28,000 on that drug. This is the period just prior to your offending.

You have apparently used your time in custody to reflect upon your drug use and you express a commitment to dealing with it reflected in the submission that I should consider making a drug treatment order in relation to you.

As to that I obtained a report which confirms your suitability for such order. Undoubtedly your success will depend upon your maintaining a commitment to dealing with this addiction. You intend to seek a referral to a mental health plan through your general practitioner and I consider that such support will assist you in dealing with your problems.

You have also indicated that you intend to complete a 16 week cognitive brain impairment programme as part of the JustAce programme and this will further assist in your rehabilitation and reintegration.

You have a number of prior convictions but none in this category. This offending marks a low point for you. You have spent a considerable time in custody already and but for the fact that you appear committed to dealing with the underlying causes of your offending a further actual period in custody would be indicated for this crime in order to punish you and mark the need for general deterrence. With time already spent in custody and the prospect of a further period in custody if you are unsuccessful or uncooperative in the course of the drug treatment order I consider that sentencing objective met.

I'm firmly of the opinion that a sentence which encourages your rehabilitation is to be preferred to one which does not. You have, as I have said, exhibited the requisite insight into your offending to suggest that your rehabilitation can be achieved.

For the purposes of the Sentencing Act I record that you have a history of illicit drug use and that I am satisfied that your drug use contributed to the Commission of this offending.

I turn to the drug treatment order. I record that I accept the contents of the report which I have received.

In relation to the custodial part of that order I sentence you to two years' and three months' imprisonment. That sentence takes account of the time you have already spent in custody and it represents the sentence you will be required to serve if you do not complete the drug treatment order. You will not be required to serve that period of imprisonment if you do. The non custodial component of the drug treatment order will include the core conditions required under ss 27(G) and 27(H) of the Sentencing Act and the following additional conditions:

- You are during the period of the order to be contactable via telephone at all times and advise within 24 hours if any changes in your contact details.
- You are not to consume alcohol and you must submit to breath testing as directed.
- You are to reside at *address* and be at that address between the hours of 9 pm and 7 am unless your absence is otherwise approved.
- You must not use or associate with anyone who uses illicit drugs, synthetic drugs, unidentified drugs or mind mood altering drugs.
- You are not to use any prescription medication without the approval of a general practitioner and you are only to take the prescribed medication in accordance with the directions.
- You are to obey all the directions of the Court Diversion Officer or any other CMD case worker, including with respect to attend case management appointments, counselling sessions, urine analysis and any other appointment or assessment required by the program.