

Barry John Eldridge has pleaded guilty to one count of arson committed on 4 April 2022. At that time, he was living at "Flint House" at 43 Pirie Street in New Town, which is a privately-owned multi-storey boarding house providing crisis accommodation to adults and children. It is comprised of multiple bedrooms, a kitchen, communal areas and bathroom facilities. It has the facilities to provide accommodation for approximately 30 people. The defendant had resided at the property for about five months.

At approximately 4:00 pm on 4 April 2022, the defendant had a verbal altercation with another resident in the kitchen/communal area. He became angry and he was heard to say he was "going to burn the place down." Almost an hour later, he used a cigarette lighter to set fire to piles of bedding and items of cloth that were stacked up in a hallway. His actions were captured on CCTV. He returned to his room and set fire to a small ottoman in his room. He then left the premises, walking back past the fire in the hallway. The CCTV shows that shortly afterwards, two other people walked past the fire, departed the same exit, and it seems, by then, the alarm was sounding.

The fire system was activated, as well as the smoke alarm, Tasmania Fire Service was alerted, and the building was evacuated. Tasmania Fire Service personnel and police officers attended. The fire was brought under control and extinguished. The fires were investigated and there was no evidence of either fire being associated with an accelerant or hallmarks of pre-meditation. There was extensive damage to the defendant's room and surrounding hallway. The value of the damage caused is estimated to be \$40,000. The residents were displaced for a short period of time and required assistance to access other emergency accommodation. There is no suggestion any of them experienced physical harm.

The defendant was located by police the following morning in the Hobart CBD and arrested. While in custody, he became increasingly agitated and attempted to harm himself, and he was transported to the Royal Hobart Hospital for assessment. He told treating medical staff that he had a history of psychotic symptoms, including hearing voices.

The defendant was 26 years of age at the time of offending. He has prior convictions and two for similar offending. On 12 August 2019, he was convicted of arson and sentenced to two years' imprisonment with a non-parole period of 12 months. It involved setting fire to a house that he had been living in as a squatter, causing substantial damage to it. The second crime was committed on 25 February 2020 when he was serving that sentence. He set fire to items in a common area near his prison cell. On 18 March 2021, he was convicted and sentenced to six months' imprisonment for that crime. Since then, he committed a common assault on 16 August 2021 and an assault of a public officer on 14 November 2021. He received a term of one month imprisonment and 50 days' imprisonment, respectively, backdated to 4 April and 5 May 2022. Since serving those terms of imprisonment, he has been in custody on remand for this crime since 24 June last year.

The background to his offending was that on the day of the incident, he was feeling aggrieved with management at Flint House. He had taken on a cleaning role for two hours a day, three days a week. He had performed this work for two months but had not been paid, and the date for payment had been deferred a number of times. On the day of the fires, he had had an argument with one of the tenants and one of the managers, presumably about the money he was owed. He consumed a considerable volume of alcohol. He has no memory of lighting the

fires or the events leading up to that. The defendant understands that his consumption of alcohol provides no excuse.

His personal background is one of disadvantage. He was raised by his mother, and parenting was harsh and inconsistent. At eight years of age, he was diagnosed with a lymphoma and needed cancer treatment. He was bullied at school. As a child, he was also diagnosed with Attention Deficit Hyperactivity Disorder. He left home at 12 years old and lived in youth shelters and group homes during his adolescence. He returned to his mother's care for a period at 14 years of age. He has a history of alcohol and substance abuse commencing in his teenage years. At 16, he left home and lived independently while attending college.

As an adult, he has experienced significant periods of homelessness and he is pessimistic about his prospects of being allocated housing on his release. He received a disability support for various conditions, including depression and anxiety.

I have the benefit of a comprehensive forensic mental health assessment provided by consultant psychiatrist, Dr Meredith Gray. Dr Gray considers that the defendant meets the criteria for a diagnosis of Autism Spectrum Disorder and the criteria for cannabis use disorder and opiate use disorder. She assesses that the defendant experienced complex trauma at multiple stages of his development. He has symptoms of poor emotional regulation, an unstable sense of self, chronic neglect for his own safety and that of others, impulsivity and intense anger that he finds uncontrollable, and he repeatedly violates social norms and rules. He meets criteria for antisocial personality disorder with borderline traits.

Dr Gray considers that the defendant's symptoms are best accounted for by complex trauma, which has resulted in impaired personality function alongside his autism, with the male voice the defendant described essentially representing the defendant's own thoughts; not an uncommon phenomenon in people with early life trauma and particularly those on the Autism Spectrum.

Having regard to Dr Gray's report, I consider there is some relationship between his mental health conditions and his offending. Dr Gray notes his poor impulse control and difficulty with social and emotional cognition and, in my view, this is relevant background, at least. Dr Gray states these deficits "may" reduce his ability to reason when faced with conflict, but whether his ability is reduced is not sufficiently clear. His impulsivity and emotional dysregulation are likely to influence his use of substances and further contribute to risk.

It is Dr Gray's opinion that his history of trauma and his autism will make prolonged incarceration more burdensome; that is, it will be a heavier punishment for the defendant than for another person. In this context I note that, while in prison, he has been held in maximum security, locked in his cell for up to 23 hours in a 24-hour period, and has had no contact visits.

Dr Gray notes there are stark deficits in supports available to the defendant on his release. There are no professional services or plans available to him currently and he faces homelessness, which makes complying with rehabilitative and therapeutic activities very difficult as his life is chaotic. The level of supports needed on his release to manage his risk of reoffending is assessed as high. I note Community Corrections have identified the defendant needs the maximum level of intervention from them.

On the positive side, the defendant has the support of his sister and, in speaking with Dr Gray, the defendant has identified very worthwhile goals for his future such as training, employment, and reconnecting with his daughter.

Dr Gray recommends that a National Disability Insurance Scheme application be made for the defendant as "a matter of urgency", and the defendant has consented to such an application being made. He has remained under the care of the mental health team while in prison and, in addition to that, Dr Gray recommends individual engagement relating to offending behaviours and social skills training. The defendant's access to education, training and other programs would be facilitated if he were moved to medium or minimum security environments.

Dr Gray has made extensive recommendations about the supports, treatment, and therapy the defendant requires in the community and which may be facilitated via the NDIS. These extend to psychological therapies, a psychiatrist with expertise in neurodiversity, occupational therapy, a social skills program, assessment for suitability for an opiate substitution treatment program, specialist drug and alcohol counselling, stable and appropriate accommodation, re-engagement with employment and/or training, and a parenting program. Dr Gray states that, ideally, a multiagency approach across housing, health, and justice would be optimal to manage risk and support the defendant on his return to the community. She suggests this could be facilitated jointly via the NDIS and Corrective Services.

I have a written response from Community Corrections, dated today, from Mr Matthew Holloway which describes being able to review the report from Dr Gray as highly beneficial in considering case management and goals for Mr Eldridge. Community Corrections would seek to support as many of Dr Gray's recommendations as possible and, where appropriate, would liaise with other agencies to enable the recommendations to be implemented. For example, a disability support package through NDIS is thought to be very valuable and feasible now that a formal diagnosis of Autism has been made, and may provide the option of supported housing and access to ADHD specialist treatment. Once Mr Eldridge is sentenced, Community Corrections will ensure appropriate steps are taken to enable the recommendations to be implemented.

The fire caused a significant amount of damage and disrupted the lives of some of the occupants. There was the potential for harm to the occupants and the firefighters who attended the scene, and there was a danger the fire might have spread to nearby buildings. The defendant has unlawfully set fires in the past and is aware that fires pose a danger to the lives of people in the vicinity.

I accept that his actions in setting the fire were impulsive and that he has no memory of lighting it. His lack of memory is due, in substantial part, to his intoxication which, as I have said, is not an excuse, and it does not, of itself, reduce the seriousness of his crime. I do accept there is some reduction in criminal responsibility arising from his mental health conditions, in particular as a result of his symptoms of impulsivity and emotional dysregulation. I accept that prison has been and continues to be more burdensome for the defendant than others as a consequence of his mental health conditions, and I take into account that Mr Eldridge has been in custody since 5 April 2022, which is a continuous period of approximately 17 months.

General and specific deterrence, as well as denunciation, are important sentencing goals. The safety of the community is also important. In this context, I note that while the crime involved inherent danger that was real and immediate, it was not the kind of arson that involved planning and clandestine efforts to effect whole-sale destruction to property. This crime was suggestive of an impulsive act with a strong prospect of detection. One of the fires was set in a hallway, a communal space, during daylight hours when people were likely to be in the vicinity and raise the alarm.

I have identified general and specific deterrence, and safety of the community as important sentencing goals. The defendant's rehabilitation is an important consideration, as well. He is

a relatively young man who has had limited support in the community, and there have been significant barriers to his reform, such as his homelessness and limited access to specialist therapy and treatment. There is now, perhaps for the first time, a comprehensive identification of his needs and the necessary intervention. Mr Eldridge, there is reason to be optimistic about your prospects, particularly given your attitude and your own positive outlook for your future and goals, such as pursuing employment. Mr Eldridge is aware of the importance of receiving help with factors such as housing and interpersonal skills.

I have taken into account his plea of guilty.

Mr Eldridge, the sentence I impose must be a heavy sentence because arson is a serious crime and because people were put at risk. I impose a sentence of two years and four months' imprisonment, backdated to 24 June 2022. I suspend the sentence from 24 October this year for a period of two years.

The balance of the sentence which is suspended is subject to strict conditions. First of all, Mr Eldridge must not commit an offence punishable by imprisonment for the operational period of two years from his release from prison. Further, he must comply with all of the conditions of a Community Correction order.

I impose a Community Correction order to operate from the same date and for the same operational period, and to run parallel to the period of suspended imprisonment. I impose the core conditions of the Community Correction order, including an obligation to report within two clear working days of his release from prison to 75 Liverpool Street in Hobart.

He must, during the operational period, report as required to a probation officer as required by the probation officer, and comply with the reasonable and lawful directions of a probation officer. He must not leave or stay outside Tasmania without the permission of his probation officer, and must give notice to a probation officer of any change in his address or employment before, or within two working days after, the change.

There are special conditions, designed to give effect to both Dr Gray's and Community Corrections recommendations:

He must submit to supervision by a probation officer as directed; he must undergo assessment, treatment, and counselling for drug dependency as directed by a probation officer; he must submit to testing for drug use as directed by a probation officer; he must undergo assessment, treatment, and counselling for alcohol dependency as directed by a probation officer, and also submit to testing for alcohol use as directed by a probation officer. He must submit to medical, psychological, or psychiatric assessment or treatment as directed by a probation officer, and attend educational and other programs as directed by a probation officer. Further, he must comply with assessments conducted by, or on behalf of, and treatment facilitated by the NDIS as directed by a probation officer. He must submit to assessment or treatment as directed by a probation officer, including assessments, treatment, and therapy recommended by psychiatrist, Dr Meredith Gray, in her report of 30 August 2023. Finally, if he has a mobile phone, he must, to the extent possible, maintain it in operating condition, provide the contact details to Community Corrections, and be accessible for contact via this device at all times.

If you breach any of these conditions, you may be brought back before the Court, the suspended part of the sentence can be imposed and you can be required to serve it.