

STATE OF TASMANIA v JASON WADE HARRIS
COMMENTS ON PASSING SENTENCE

9 MAY 2024
PORTER AJ

Jason Harris, the defendant, has pleaded guilty to one count of arson. On 13 July 2023 he set fire to his own unit in Kingston, which was the property of Homes Tasmania. The facts are that during the day the defendant had been home with his nine year old son. About mid-morning, a neighbour visited and they spoke for about 10 minutes. The defendant believed threats had been made towards him. As a result he telephoned his partner, and told her about the threats. That in itself caused an argument and the defendant became upset. The defendant then told his son to leave the house and go to his aunt's home nearby; that person is the defendant's sister. After his son had left, the defendant poured petrol in a number of areas throughout the inside of the house and then used a lighter to ignite it. After ignition, he remained in the house, but after about five minutes smashed a window, jumped out and went to a nearby main road. Emergency services were called at about 2.25pm. Tasmania Fire Service went to the scene and brought the fire under control. The defendant was located by police sitting in the middle of a major roadway directly behind the street in which he lived. Although not appearing to have any physical injuries, he had to be physically carried off by an officer and a bystander. When police asked him about the fire and whether anyone else was inside, he did not answer was yelling incoherently. A bystander told the police he lived there with his son. The accused's sister was able to tell the police at the scene that the defendant's son was with her. The defendant was taken to the Royal Hobart Hospital where he was interviewed the following morning. He said that he had set fire to the house because "he had to". He did it because he was being harassed and had threats made towards him as a result of the extensive fire damage, the property had to be demolished with an estimated total damage of \$375,000.

The defendant is now nearly 43 years old. He has a record of prior offending which extends from traffic matters including drink driving offences and driving whilst disqualified through property offences to offences of violence. Of note, although of considerable age, are convictions in this Court in 2002 for arson and injury property resulting in a short partly suspended term of imprisonment. In July 2010 he was convicted to wounding and sentenced to nine months' imprisonment the execution of four months of which was suspended on conditions. That suspended sentence was activated in July 2012 but after that there is little recorded offending until May 2021. There has been a driving whilst disqualified and refusing to undergo an oral fluid test with some associated matters, after the commission of this present crime. The defendant was made the subject of a community correction order for 18 months with a condition that he comply with directions of Mental Health Services. It is not clear what other special conditions there are, if any. There is a history of some offending in New South Wales and Victoria of similar nature to the bulk of that recorded here. I have a report from Dr Michael Jordan, forensic psychiatrist, dated 9 February 2024 and a Community Corrections assessment report dated 26 April 2024. As to the defendant's family situation, he separated from the mother of his son when the child was very young but they maintain a relationship. He has the care of the son, now 10. The couple had another child, a daughter late last year. The mother had the care of that child until very recently when the mother relapsed into substance abuse, and her mother delivered the child to him to care for. He is to engage with Child Safety Services with a view to custody. The defendant is presently living with his sister. Dr Jordan's describes a chaotic and dysfunctional family unit when the defendant was of early age. He was put in foster care at the age of 12 during which there is an allegation of abuse. He returned to the care of his father but oversight was minimal and the defendant became involved in anti-social behaviour. He was made a ward of the State when 15 and placed in the Ashely Youth

Detention Centre where he spent about 13 months. He was sexually abused during his period in institutional care. After being released he spent three months living on the streets in Melbourne before returning to Tasmania and being imprisoned. He has limited education. Dr Jordan sets out a lengthy history of involvement with mental health services system starting some 20 years ago when the defendant was living in the Ballarat area. There are many references to paranoia and delusions. He has had involvement with Community Mental Health Services in Hobart from 2017 onwards when he was placed on an anti-psychotic, and was consulting a general practitioner in early 2022 with regards to his mental health. After that the defendant and his son moved to Queensland for a short time before coming back in late 2022. While in Brisbane the defendant was admitted to a psychiatric unit for about a month. After his return to Tasmania however, there was no contact with mental health services until he was admitted to the psychiatric unit the day after this offence. There was a diagnosis of a relapse of schizophrenia, and a treatment order was made to which the defendant is still subject. Dr Jordan outlines a development of paranoid ideation in the weeks leading up to the offending. The defendant reported a belief that various neighbours were threatening him. He was convinced that listening devices had been placed in the walls of the unit, and he was cautious moving about the community. A complicating factor seems to be his use of methamphetamine. He had taken the drug the night before, further destabilising his mental condition. The defendant described to Dr Jordan that he began to panic on the morning of the offending. One incident was the unexpected arrival of a person with a parcel which, to the defendant, looked like a bomb. At that point the defendant was convinced he and his son were under a significant threat. As Dr Jordan puts it, almost immediately, he worked on a strategy to burn the house down, planning to eventually commit suicide within it. He had considered calling the police but felt too scared to do so as he was unable to trust how they might respond. He lit the fire and for a period remained in it pondering suicide but having become affected by smoke and the heat he escaped. In summary, the defendant has been treated with anti-psychotics, at least in an intermittent fashion, over an approximate two decade period. After the defendant's return from Queensland, there is evidence of an increased level of paranoia, intensified by the use of methamphetamine. Dr Jordan considers there is a strong nexus between the symptoms of the defendant's schizophrenia and his disordered logic and setting fire to the property. There is no suggestion of course that he did not know what he was doing, nor that it ought not to have done it. He was no longer considered intoxicated by amphetamine at the time of setting the fire but that drug had achieved the effect of further intensifying his existent paranoid thoughts. His judgment was impaired and illogical, and Dr Jordan considers the effects of schizophrenia were to reduce moral culpability. In Dr Jordan's view, a number of other sentencing factors which may influenced by impaired mental functioning in accordance with the *Verdins* principles are relevant to the defendant's situation. These include that imprisonment will have a greater impact on him than an individual without his problems, and it is likely to provoke a deterioration in his mental state. The Community Corrections assessment report states the defendant is suitable for supervision, noting the present order is due to expire on 7 August 2025.

Arson is generally a serious crime. It often involves considerable risk to firefighters who are called to the scene, and there is the added risk that emergency vehicles may create in getting to where they are required. This case is at a high level of seriousness because of the extent of the damage. The unit was completely destroyed. This form of housing has intrinsic social value. However, the circumstances of this case persuade me that it can be dealt with on an individualised basis. I am satisfied that the defendant was suffering from impaired mental functioning at the time to a significant degree and in relevant respects. He had paranoid delusions was intent on doing harm to himself. He was quite unwell but is now the subject of

a treatment order and he is being appropriately managed. He has strong family related incentives to remain compliant with that regime. He has an assigned worker through community mental health services and continues to have long lasting anti-psychotic injections on a voluntary basis at the appropriate intervals, and remains engaged with his general practitioner.

Hr Harris, I have set out the facts and your relevant personal circumstances together with the considerations to be taken into account. As I have noted, I accept you were unwell at the time and functioning under the influence of the effects of your mental illness. Consumption of drugs did not assist the situation. I accept that your mental illness is now being appropriately managed and, as I have said, you have good incentive to maintain contact with Mental Health Services and to comply with recommended treatment. The crime itself warrants a term of imprisonment but in the circumstances, the execution of the term can properly be wholly suspended. I will also provide you with some more extended support in the form of a community correction order. You are convicted and sentenced to 18 months' imprisonment the execution of which is wholly suspended on condition you commit no offence punishable by imprisonment for a period of two years. In the circumstances I will make a further community correction order for a period of two years starting from today. Special conditions of that order are that you submit to the supervision of a probation officer as required, submit to medical psychological or psychiatric assessment or treatment as directed, undergo assessment and treatment for drug dependency as directed and that you comply with the directions as to treatment that may be given to you by Community Mental Health Services health professionals. I am obliged to order that you report to a probation officer. You will have to do that in person or by telephone by 5pm Monday 13 May 2024. I make a compensation order in favour of Homes Tasmania in an amount to be assessed and I adjourn the further hearing of that to a date to be fixed.