

STATE OF TASMANIA v JASON TIMOTHY CIANTAR
COMMENTS ON PASSING SENTENCE

21 MAY 2024
JAGO J

Mr Ciantar, on 14 August 2023, I sentenced you to a Home Detention Order with an operational period of 12 months. I also imposed a Community Correction Order. The sentencing order related to the crime of wounding. It was a serious case of wounding. You struck the complainant to the head with a large knife and caused a wound to the front left side of her scalp, which was closed with six surgical staples. She experienced significant psychological difficulties following the attack.

I determined that it was appropriate to impose a Home Detention Order because you were, at that time, trying very hard to address what has been a long term drug addiction. When I sentenced you, I said the following, "If at the end of the day you do not embrace the opportunity I have given you, and you return to the use of illicit drugs or otherwise breach the terms of the Home Detention Order, an application can be made that you be re-sentenced. It would be almost inevitable, in my view, that any re-sentencing order would involve actual imprisonment". You have now breached the terms of that Home Detention Order by refusing to provide urine samples and by using illicit substances. You failed to provide urine samples for drug screening on 19 September and 6 October 2023. You failed to attend scheduled drug screening appointments on 30 October, 20 November and 7 December 2023.

Additionally, the following substances were detected in your urine on the following dates, following urinalysis:

- On 24 and 28 August 2023 - cannabis, amphetamine and methyl amphetamine;
- On 7, 12 and 20 September 2023, and 5 October 2023 - cannabis;
- On 1 November 2023 - cannabis, amphetamine and methyl amphetamine;
- On 16 November 2023 - cannabis; and
- On 27 and 29 November 2023 - cannabis, amphetamine and methyl amphetamine.

Further, on your admission form for the drug screen on 24 August 2023, so a mere 10 days after I had sentenced you, you admitted to using cannabis and methyl amphetamine and also admitted that you mislead the Court during the sentencing hearing by failing to disclose that you were still using methyl amphetamine at that time. I note you did acknowledge during the sentencing hearing that you were still using cannabis, but indicated you were determined to, and capable of, abstaining from ongoing cannabis use and had done so in the past. It seems, however, at this stage, you are not capable of that abstinence and you have continued to use illicit substances regularly throughout the life of the Home Detention Order.

There have also been breaches of the Home Detention Order by way of you making unauthorised deviations from your approved scheduled route whilst outside of the Home Detention premises. Such deviations have occurred on seven occasions. Additionally, there has been one occasion when you have breached the conditions of the Home Detention Order by leaving the home detention premises without authorisation.

I accept there have been some positive occurrences whilst you have been on the Home Detention Order. Of significance, there has been no further criminal offending. You have undertaken some drug and alcohol counselling. You have spent a considerable period of time caring for your father who is in poor health, including establishing a large vegetable garden at his premises and successfully harvesting a considerable quantity of vegetables.

I accept many of the breaches of the Home Detention Order by way of unauthorised deviations occurred because you were disorganised. For example, you had sought permission and received authorisation to attend at a supermarket and on route also visited a pharmacy. It is not the breaches of the Home Detention Order by way of these unauthorised deviations that cause me significant concern, rather it is your ongoing illicit drug use. In light of the persistent nature of your ongoing drug use, I see no option but to cancel the Home Detention Order and resentence you. In so doing, I take into account the length of time you have been on the Home Detention Order, the extent to which you have complied with the Home Detention Order and, importantly, the fact that you have not breached it by the commission of any further offending.

I make the following order. Pursuant to s 42AI(4)(c), I cancel the Home Detention Order. I resentence you. You are sentenced to five months' imprisonment commencing 1 May 2024.