

Mr Hughes, the defendant, has pleaded guilty to six counts of fraud. These pleas were entered before Brett J on 22 March 2024. The Crown stated the facts and counsel made a plea in mitigation on Mr Hughes' behalf. His Honour adjourned the proceedings to 26 March 2024 so a particular matter could be clarified. On that date, his Honour then made an order deferring sentence until 2 September 2024, pursuant to s 7(eb) of the *Sentencing Act*. At the time, his Honour referred to a lengthy and detailed criminal history, but also the absence of any serious offending since a change of lifestyle shortly after the commission of these offences, and a similar order of deferral being made in the Magistrates Court in 2023 which ultimately resulted in a "relatively lenient" sentence in the form of a wholly suspended term of imprisonment. In Brett J's absence, the matter came before me. I have read the statement of facts, reviewed counsel's plea in mitigation and have heard further submissions.

The facts are as follows. The six crimes constitute a course of conduct which occurred between 19 October 2022 and 26 October 2022, with each crime being committed in a similar way. A man by the name of Steele Mansell was employed by the Department of Natural Resources and Environment in Parks and Wildlife as a firefighter. As part of his employment he was supplied with various items of branded uniform, including shirts, jumpers, jackets, trousers and hats. Mansell and the defendant were known to one another. It emerged that they agreed that they would use Mansell's knowledge and uniform to obtain goods from various stores throughout Launceston by way of fraudulent ordering of goods on behalf of the Department. On 19 October 2022, the defendant went into a hardware store wearing the Parks and Wildlife uniform. Without authority he arranged for a piece of equipment to be invoiced to the Department, and took the piece of equipment, valued at about \$1,900, with him. Two days later, he returned to the same store, again dressed in the uniform, and arranged for the invoicing to the Department of eight separate pieces of equipment to a total value of about \$3,640.00. On 26 October he repeated this conduct at a marine outlet, arranging for the invoicing to the Department of the sum of about \$4,000 for an echo sounder. On two separate occasions on the same day, he repeated this fraudulent conduct, first obtaining a chainsaw and wood cutting tools from a small engine store, with the invoice to the Department totalling about \$2,260, and on the second occasion obtaining a chainsaw and associated equipment from the same store, with the Department being invoiced for about \$4,600. Two days later, both the defendant and Mansell went back to the same store with the defendant again wearing the uniform. Chainsaws and other equipment were taken with the Department invoiced for a total of about \$4,610. The precise total amount of the fraudulent invoices sent to the Department is \$19,994.35. On 29 November 2022, police searched the defendant's home but none of the property was located. The defendant was arrested and later interviewed. Although he made limited admissions, they were sufficient to suggest he was involved, but he said he was using drugs and could not remember everything.

The defendant is now 35 years old; 33 at the time of the offending. The Court was told he is a proud Palawa man. He has a lengthy record of offending commencing in 2007. In December 2008 he was convicted in this Court of stealing and armed robbery and sentenced to 12 months' imprisonment, most of which was suspended on conditions which included assessment and treatment for alcohol and drug dependency and submission to medical, psychological or psychiatric assessment or treatment as directed. Later, in April 2009 he was again convicted in this Court of offences; this time corrupting a witness and perverting the course of justice. Those offences were committed before being sentenced on the previous occasion. Further offending

continued a regular basis. That offending included aggravated assault, firearms offences, and many offences of dishonesty and of a traffic nature. He has had the benefit of suspended sentences, some of which were later activated. More recently, in June 2018, he was made the subject of a drug treatment order with a very short custodial component, but about a year later for a miscellany of offences, primarily offences of dishonesty, firearms and drug offending-he was sentenced to 20 months' imprisonment. More recently, as I have noted, sentencing in the Magistrates court was deferred on 5 May 2023 for a period of six months with the ultimate sanction being what appears to be five months' imprisonment, suspended on conditions for two years. Those offences were committed at around the same time as the present offending. As at this date, there is no suggestion of any breach of the terms of suspension of that sentence. The defendant had a very unfortunate, disruptive and dysfunctional upbringing. He has eight siblings and numerous step-siblings but had minimal contact with both parents and no contact with siblings as they were placed in the care of Child Safety. Both his parents struggle with addiction to alcohol and drugs. His mother left when he was a few months old, leaving him to be cared for by numerous family members throughout his formative and teenage years. He regularly witnessed family violence, drug and alcohol abuse and criminal activity.

He was home schooled on Cape Barren Island and successfully completed year 9 with satisfactory numeracy and literacy skills. It is unclear as to when he moved to mainland Tasmania. He commenced cannabis use at 13 years old, which escalated to methyl amphetamine use in about 2015. His record does indicate heavy drug use. Until the end of 2022 he had no gainful employment and struggled with his addiction. Although it does not seem he had taken possession of any of the items of equipment or received any financial benefit, as Brett J noted, the offending was apparently motivated by a combination of his enlistment by Mansell who wanted to secure funds for his drug taking, and the defendant's own drug use. A significant change in his life happened when he moved back to Cape Barren at the end of 2022, where he now lives with his partner of about five years, and their two children aged 3 and 2. His relationship is a positive one, and the woman is not involved in the criminal justice system. I note he has a 14 year old child from a previous relationship with whom he maintains contact. Shortly before that move, he had been back on the Island following the death of his aunt, with whom he had a close relationship. He came back to mainland Tasmania in a significant state of grief. His drug use continued, and he committed the offending when he was in a vulnerable state. Shortly after he packed up with his family and returned to the Island. Having returned to country, he has gained the respect of the elders in his community. He undertook volunteer work through the Cape Barren Aged Care programme, doing garden maintenance and wood supply, volunteering at the local shop and at a golf course. He then began work as a part-time ranger with the Truwana Ranger Team in March 2023. Brett J was provided with letters of support from both the Chairman and the General Manager of the Cape Barren Aboriginal Association., both the Manager and Ranger co-ordinator of the Aboriginal Land Council, a mental health worker from Blue Door, rehabilitation centre, and an archaeologist with Aboriginal Heritage Tasmania. As his Honour noted, all of those letters of support show that the defendant had then clearly demonstrated to the authors that he was genuine about wanting to put his drug problem behind him, put criminal offending behind him and adopt a pro-social life aimed at the benefit of his family, consistent with his cultural heritage and the expectation of his community. It was that material which, in part at least, led his Honour to defer sentence.

At the hearing before me, I was supplied with updates of these reports from the ALC officers and the Ranger co-ordinator, together with a report from the general manager of the Cape Barren Island Aboriginal Association. These show that in May of this year, the defendant was offered a full-time position as a ranger. The co-ordinator and supervisor of the team says that

the defendant has had a considerable positive influence, particularly with his work ethic. His return to the Island is fully supported by community leaders and is seen as someone who is going to have a role in the community in the long term. It is said that he shows initiative, follows direction, works hard and is particularly motivated. It is revealed that he has recently suffered some very difficult personal circumstances; in particular, the death of his mother and father in quick succession. Despite this personal tragedy, he has continued to contribute positively and diligently to the ranger team, and more generally to the broader community. I am satisfied that he is drug free. He has demonstrated to those in positions of responsibility that he is someone who has a future role in the Island community in the long term.

Plainly enough, these offences are of a serious nature. They involve masquerading as a person of some authority within government and taking advantage of the trust of those in the businesses involved. The fact that the crimes seem to have been "easy" to commit does not mitigate the offending. I take into account, as I must, the defendant's disadvantaged background and his pleas of guilty. Were it not for his demonstrated rehabilitation in terms of his drug use and addiction, and attitude to criminal behaviour, as in fact Brett J pointed out on the last occasion, imprisonment would be inevitable. As it is, a term of imprisonment is appropriate to mark the seriousness of the offending in light of the defendant's prior history, but there is ample justification for suspending the execution of the whole of the term on conditions.

Mr Hughes, I have set out the facts, your personal circumstances, and the relevant considerations. As I have explained, a sentence of imprisonment is called for but the apparently complete way in which you have changed your life around and are now a contributing member to the Island community, and hence to society in general, should be recognised, with that sentence being suspended. You are convicted of the crimes and sentenced to nine months' imprisonment, the execution of the whole of which is suspended on condition you commit no offence punishable by imprisonment for a period of 18 months. I make a compensation order in favour of the State of Tasmania in the form of the Department of Natural Resources and Environment. It is agreed that the amount is one half of the total involved. The order is for the payment of \$9,997.18.