

STATE OF TASMANIA v JAY THOMAS HARDING
COMMENTS ON PASSING SENTENCE

28 AUGUST 2024
JAGO J

Mr Harding, you have pleaded guilty to three counts of unlawfully injuring property. Sometime between 8 and 9 July 2022, you entered the grounds of the Devonport Primary School and used one or more rocks to smash 31 glass windows at the school. The cost of replacing the windows was \$26,245.27. Many of them could not be replaced immediately and the school was badly inconvenienced by your destructive behaviour.

A month later, between 8 and 9 August 2022, you again entered the grounds of Devonport Primary School and smashed or cracked another five windows. You then entered the grounds of Our Lady of Lords Catholic School, which was nearby, and used bricks to smash five windows at that school, including windows in the school church. Again, both schools and their students were inconvenienced by your actions and some of the younger children were quite concerned about your gratuitous vandalism. The five windows at the Devonport Primary School were replaced at a cost of \$5,812.74. I have not been told the full cost of replacing the windows at Our Lady of Lords Catholic School, but the cost of replacing a single window was \$807.86.

Your involvement in these crimes was detected following forensic examination of the scene which revealed a DNA match to you. You were initially spoken to by police on 31 August 2022 and asked about the July incident. You told police that you had been at the Gateway Hotel that night and had lost money gambling. You were angry and took your anger out on the school property by smashing the windows. You said it made you feel "a little bit better". At that time, you were not asked about the windows at Our Lady of Lords Catholic School. On 16 November 2022, after further forensic results had been returned to police, you were again interviewed. This time, you were asked about the broken windows at Our Lady of Lords Catholic School. You told police that you were "really drunk" and that it was possible that you had smashed the windows on the same occasion that you had smashed the windows at Devonport Primary School.

You are now 20 years of age; you were 18 when you committed these crimes. At the time, you had no prior convictions of any significance. There were some matters of dishonesty that had been dealt with in the Youth Justice Court. Since the commission of these crimes, however, you have gone on to commit some further serious crimes. On 27 July 2023, I sentenced you to 16 months' imprisonment, wholly suspended, for one count of arson. This crime occurred on 3 October 2022, so shortly after the three counts of unlawfully injuring property. On that occasion, you and an accomplice entered and set fire to a house in Devonport, causing approximately \$450,000 worth of damage. Obviously around this time, the commission of crimes of wanton vandalism was a concerning aspect of your behaviour.

Additionally, since the crimes of unlawfully injure property, you have also committed various offences including breaching bail conditions, evade police, and offences contrary to the *Road Safety (Alcohol and Drugs) Act*. These offences occurred before the imposition of the suspended sentence on 27 July 2023. There have been further offences committed following the imposition of the 27 July 2023 sentence, involving several counts of breach of bail, but I suspect because of their nature, there has not been any application to breach the suspended sentence. On 23 April 2024, you were sentenced to an 18 month Community Correction Order, for the breach of bail matters and that order remains operative.

Your Counsel submits on your behalf that in recent times you have settled considerably. It can only be hoped that that is true, because for a young man you are accumulating a poor criminal history. I am told that you have recently formed a positive relationship with a person who is a good influence upon you. You have also started seeing a psychologist and have been addressing some mental health issues which have impacted your life. You remain a young offender and your rehabilitation is to be encouraged. I take into account your plea of guilty and lack of prior convictions when these crimes occurred. The objective seriousness of the crime and the need for general deterrence requires the imposition of a sentence of imprisonment, but given these crimes occurred before the arson matter for which you were sentenced in July 2023, and save for the breach of bail matters I have mentioned, there appears to have been a settling of your behaviour since that sentence, I am of the view that it is appropriate that the sentence of imprisonment I impose today also be wholly suspended. Mr Harding, you should very much treat this as your last opportunity to avoid a period of actual imprisonment.

You are convicted of the crimes. I impose one sentence. You are sentenced to three months' imprisonment, the execution of which is wholly suspended on condition that you commit no offence punishable by imprisonment for a period of 18 months.

As you should be no doubt aware, if you commit any offence punishable by imprisonment – and I stress the word "any" – within that time, you can be brought back to a Court and a judge must order you serve the period of imprisonment unless it is unjust to do so.

I make the following compensation orders; In favour of JLT Risk Solutions Pty Ltd in the sum of \$31,858.01; in favour of the Department of Education, Children and Young People in the sum of \$200.00 and in favour of Our Lady of Lords Catholic School in the sum of \$807.86.