

Rodney Bailey, the defendant has been found guilty of one count of arson. The allegation was that on about 28 June 2023, he set fire to a building known as Baden Hall in the locality of Baden, near Tunnack. The building was totally destroyed. Baden Hall was of some historic value, having been built at around the start of the last century and apparently having served as a community hall and also as war memorial. It was in private hands the time of the fire and was used for storing equipment in association with a farming operation. The building was not insured but its empirical value is said to be about \$180,000, with the value of the contents estimated to be about \$20,000. The fire was started late at night on 28 June or the early hours of the following morning. It was not detected as a structural fire until daylight hours and after it had burnt out. The evidence at the trial largely consisted of recordings of voice messages left by the defendant with a person with whom he was then doing odd jobs, a friend, Stuart Palmer, and also with a former partner. There was also a police interview on 29 June during which some messages were played but in which the defendant denied being responsible. The messages were sent in the time before when the fire was thought to have been lit and, it was alleged, during the relevant acts themselves. In the messages sent in the prelude, the defendant refers to setting fire to something which Mr Palmer could see from his back door. Baden Hall is in that direction, and any fire could be seen from his house. In the messages to his former partner the defendant speaks of burning a building "right now". Relevant to the defendant's mental state, is that the messages also contained threats to burn other things, including the whole of the town of Tunnack, and a statement that he is setting fire to another building, which turned out to be untrue.

The commission of the crime seems to have been an expression of anger and high emotion triggered by, putting it in simple terms, the discovery that Mr Palmer was in love with a female, R, and was keen on taking things further in that respect. R was a friend of them both. Mr Palmer had told R of his feelings about a week before the fire. The defendant also had a keen and romantic interest in R and thought Mr Palmer had become romantically involved with her. For his part, Mr Palmer was trying to dissuade R from seeing the defendant. I record the fact that according to R in her evidence, she had a romantic interest in neither man; they were just friends. She admitted though, that she may have led the defendant on allowing him to think their relationship was more than a friendship. Much of the content of the phone messages can be described as abusive, jealous ramblings directed towards Mr Palmer, saying in effect that he had betrayed him and that the female had broken his heart.

The defendant is now 43 years old. He has a very lengthy recorded history of offending and a lengthy history of serious mental health issues. Those issues remain. In his record, there is a wide variety of offending types, and he has served terms of imprisonment for traffic offences, anti-authority offences, breaches of family violence orders, dishonesty and violence. On 30 October 2023, on a range of offences, he was sentenced to periods of imprisonment totalling 6 months backdated to 28 June 2023. He remained in custody for a further 316 days on this matter before being bailed. The court was told of a history of profound deprivation and abuse as a child and adolescent which included sexual abuse. Both parents used extreme measures of physical chastisement. His mother hit him with broom handles and electrical cords and on one occasion poured hot water on him. His father used belts and heavy-handed slaps. They enforced a strict lifestyle; the defendant was emotionally and physically neglected and lived in substantially unhygienic conditions. After disclosing sexual abuse from a family member, he

was removed from the family home in December 1992 and placed in a family group home. He was in and out of various care facilities and placements and experienced violence and sexual abuse. He had significant behavioural problems in school, having to be moved a few times in high school, ending in the option of distant education. I have a comprehensive report from Dr Joseph Poznanski dated 18 April 2024 prepared for Redress Scheme purposes. The defendant has been diagnosed with Major Depressive Disorder, Borderline Personality Disorder, Anxiety Disorder and, more prominently it seems, Chronic Post Traumatic Stress Disorder. As a symptom of that condition, anger or irritability are generally triggered in the context of an interpersonal conflict. The conflict may be minor but sufficient to elicit an intense angry reaction which is out of proportion with presenting circumstances. When agitated, it is said he is prone to resort to violent action and the effects of his rage linger for a disproportionate period. The sum total of his mental health disabilities makes him unfit for employment and he has been assessed as unfit for community service for the same reason. In Dr Poznanski's view the defendant needs a range of therapeutic modalities including medication.

As to the offending, I cannot be satisfied when it was that the actual intention to set fire to Baden Hall was formed. I am satisfied that it was not an impulsive or opportunistic act. The triggering event of learning of Mr Palmer's interest in R was a few days beforehand. I infer that the defendant had to walk quite a distance to get there. However, having regard to the timing and content of the messages, I will proceed on the basis that things developed during the day leading up to the fire. I accept that there was a limited capacity for the fire to cause damage to neighbours, given its location. There was no actual risk to firefighters or anybody who went to deal with the fire, although there was always that potential. Of course, the defendant does not have the benefit of a plea of guilty.

Arson is a serious crime. It involves the destruction or damage of structures, often at great cost, and the commission of the crime itself is often difficult to detect. This is a serious instance of the crime. The setting of the fire was intentional not reckless. The building had historic value and value to the community as a landmark. The defendant has a bad record of offending but, of course, all of that has to be put in the context of his serious mental health issues and what gave rise to them. In my view this case calls for an individualised sentence and the considerations I referred to will be reflected in the sentence.

Mr Bailey, I have set out the facts of the matter, your personal circumstances and the relevant considerations. This was a terrible thing to do to the owner of the building and to the small community. You did it simply out of anger. A lengthy term of imprisonment is necessary, but I note you have already been in custody for a little over ten months attributable to this crime. You are convicted and sentenced to two years' imprisonment to commence on 22 April 2024. The operation of the balance of that sentence from today is suspended on condition you commit no offence punishable by imprisonment for a period of two years. In addition, I make a community correction order for a period of 18 months. The conditions of that order are that you during the operational period of the order you must submit to the supervision of a probation officer, undergo assessment and treatment for alcohol or drug dependency, and submit to medical, psychological or psychiatric assessment or treatment, all as may be directed by a probation officer. It is also a condition that you report to a probation officer at 3 Terry St, Glenorchy by 5.00 pm this Wednesday. I perhaps do not need to explain to you the effect of this suspended sentence, but I stress that if you commit any offence punishable by imprisonment and that means any such offence, you could be brought back to this Court and the balance of the sentence, which approaches one year and two months, must be activated unless it is unjust.