

Mr Robson, I have found you guilty of one count of recklessly discharging a firearm. You were acquitted of one count of aggravated assault.

The factual basis of sentence is apparent from my published reasons for judgment in the trial. In summary, you discharged a rifle into the ceiling of your bedroom, which was in a detached building adjacent to your mother's house. You did this while you were in a psychotic state caused by your recent consumption of illicit drugs, mainly amphetamine. There was only one shot, and the bullet caused a small hole in the ceiling and roof. There was no other damage to property or injury to any person. Although your sister and young cousin were in the main house, and risk of injury theoretically arose from, for example, a ricochet, there is no suggestion that this risk was immediate or significant. The only person who witnessed your actions was your brother, to whom you sent the video showing your discharge of the rifle. Your intention was to threaten him and scare him off because in your delusional state, you believed he was a threat to you. You now accept, of course, that your delusional belief about this was completely false.

You are 31 yrs of age. You have a couple of minor convictions which although the drug matter is typical of the history you described in your evidence, those matters I do not think, bear on the question of sentence to any significant extent. Your general background is set out in detail in my reasons. You are now back in employment, in a stable relationship and, I accept, abstinent from illicit drugs and have moderated your use of alcohol. Having listened to you give evidence, I also accept that you have genuine remorse for what happened, and you also have insight into why it happened and what you did,

The discharge of a firearm in a residential setting is objectively serious. However, the question arises as to the extent to which your psychosis diminishes your moral culpability for this crime, if at all. Given the absence of criminal history for such conduct, I accept that when you are not affected by the condition from which you suffered at the time of this crime, it is unlikely that you would conduct yourself in this way.

However, as I have discussed in my reasons, the psychotic state arose from your voluntary consumption of illicit drugs over a period of time. Section 11C of the *Sentencing Act* precludes self-induced intoxication from being taken into account as a mitigating factor. Strictly speaking, you were not intoxicated from drugs at the time, although you probably were from alcohol. You have been found guilty despite the drug's effect on your capacity to reason because it does not amount to a mental disease for the purpose of s 16, not because of actual intoxication at that time. However, the underlying policy of that provision is consistent with the common law. I would not regard the effects of your consumption of illicit drugs as mitigatory in any event. However, I can, I think, consider the psychosis as an explanation for your conduct. This is relevant to my assessment of the likelihood of repetition and the consequent need to address specific deterrence, and ongoing rehabilitation in the sentence. In this regard, you do have a history of illicit drug use and some underlying psychological factors which predispose you to take drugs. Dr Dawson, at least, recommends ongoing counselling and psychological therapy. In the circumstances of this case, I agree with that recommendation and in my view, the most appropriate sentence is one which facilitates and supports that recommendation. I also take into account in arriving at this conclusion, that you spent just over one month in custody following

you arrest of the night of the crime, and you should of course receive favourable consideration for the fact that you have received some actual punishment by being kept in custody during that time.

Accordingly, my sentence is this, I convict you of the crime of which you have been found guilty and make a community correction order. You must comply with the order for a period of 12 months, and that period shall commence today. The core conditions of the order require you to report to a probation officer and you shall do so at the office of Community Corrections in Launceston within three clear days of today. In addition to the core conditions, the order shall also include the following special conditions:

- (a) you must, during the operational period of the order,
 - i attend educational and other programs as directed by the Court or a probation officer;
 - ii submit to the supervision of a probation officer as required by the probation officer;
 - iii undergo assessment and treatment for drug dependency as directed by a probation officer;
 - iv submit to testing for drug use as directed by a probation officer;
 - v submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.