

ACT SUPREME COURT

DRUG AND ALCOHOL SENTENCING LIST

SPEECH OF ACTING JUSTICE REFSHAUGE ON THE OCCASION OF THE GRADUATION OF CRYSTAL PARKER

12 FEBRUARY 2021

Crystal Parker, this is an important day for you, for the community and for this Court. You have graduated from the Program of the Drug and Alcohol Sentencing List by completing the regime of drug rehabilitation and by transitioning successfully through the three phases of that program of the court with the intention that you become abstinent and able to manage your dependency on drugs and to put behind you the way that this dependency on drugs substantially contributed to your serious criminal offending.

Use of addictive drugs has been a part of human history for thousands of years. We have evidence of their use in Ancient Egyptian culture. The use of alcohol is everywhere in the Bible. While drugs were a part of the cause of some crime, it was largely alcohol which precipitated people into the courts for offences of violence and public disorder, though the serious domestic violence which it caused was not much recognised by the courts and society for a long time.

In the 1960's, the explosion of drug variety and their availability led to the dependency on drugs becoming more and more a feature of the criminal courts. It soon became obvious that the old approach of prohibition and severe sentences was not working to stem the criminality. The so-called War on Drugs was not a success, punitive measures simply filled the prisons, especially with people who were users at the street level rather than manufacturers and dealers.

Commencing in the USA, special problem-solving courts, known as Drug Courts, were established, underpinned by the principles of therapeutic jurisprudence especially as promoted in the writings of academics Bruce J. Winick and David B. Wexler. These courts adopted a harm minimisation and public health approach with appropriate criminal justice norms to address the burgeoning problem.

The idea spread internationally and Drug Courts are now established in every State and Territory in Australia.

Here in the Territory, through forward thinking, Chief Justice Murrell, who herself has been the first judge of the NSW Drug Court, the first such court in Australia, established a working party under the insightful and effective leadership of Justice Burns to scope a Drug Court within the Supreme Court, itself an innovation.

The Government accepted the proposal, though what was created was a Sentencing List within the Supreme Court, with special powers to provide a program of rehabilitation and judicial supervision, supported by extensive assistance from a team of committed and effective workers from Health, Corrective Services and

police, as well as dedicated prosecutors and defence lawyers. The judge in charge of the List was given special powers of supervision as well as traditional sentencing powers, such as imprisonment, hence the Drug and Alcohol Sentencing List.

Chief Magistrate Walker, as Acting Justice Walker, took the role of the first supervising judge to set up the List once approval and strong support had been given by the ACT Government and the then Attorney-General, Mr Gordon Ramsay. Her Honour first started at the Sentencing List Court on 3 December 2019. Her Honour's energy and commitment meant that the Court continued to grow and develop well as an important part of the Court's response to the serious problems caused to the community, victims and offenders from drug and alcohol related crime, until the world was turned upside down with the COVID-19 pandemic.

On 7 February 2020, Acting Justice Walker sentenced you to imprisonment for three years for two offences of aggravated robbery and one offence of attempted aggravated robbery. Her Honour, however, made a Drug and Alcohol Treatment Order for 12 months which has now expired. The balance of your sentence of imprisonment is to be served in the community subject to a Good Behaviour Order. Any breach of that Order, will require you to be brought back to Court and to be dealt with for the breach. Sanctions for the breach could include requiring you to serve all or part of the balance of your sentence of imprisonment.

As the COVID-19 pandemic changed the operation of the Courts, her Honour returned to the ACT Magistrates Court to manage the problems it was experiencing and her role was taken by Justice Loukas-Karlsson, who guided the Court through these difficult shoals with thoughtful care and compassion for you and all the participants, with the necessary supervision that is an essential feature of the Court.

I am delighted and honoured that both Chief Magistrate Walker and Justice Loukas-Karlsson have joined me on the Bench to celebrate this day and to wish you well. They both laid essential groundwork for the Court on which I have been able to build, as well, of course, as being instrumental in supporting you in your journey to this day of graduation. Without them, neither you nor I could have done what we have done.

Crystal, while your graduation is a moment of great celebration and great pride for you, it is only a stage of the journey that you have begun to a life within the community without dependency of drugs and the diversion this causes from allowing you to develop your full potential and avoid criminality which will prevent you from participating fully as a member of our community.

The journey has had, and will continue to have, its good moments, like when you began your course at the Canberra Institute of Technology and later were able to share with us the results of your cooking skills that you were developing to our great delight. It also had and will continue to have its challenging moments. It has, as is inevitable, its ups and downs.

You have been fortunate to have been assisted, guided, counselled, supervised and supported by an incredibly dedicated and very expert Treatment Order Team, who have journeyed with you. While you are no longer subject to their supervision or

mandated treatment, there is still opportunity for you to seek their advice and counsel if you need it.

There will still be temptations and you need to take care for the risks that you will face. A big risk is the associates with whom you will interact, who may be from or associated with the way of life from which you need to protect yourself. You never cease to be dependent, but your success and ability to avoid further criminality is determined by your ability to manage this dependency and to master it rather than to let it master you. You will not avoid every temptation, but self-protection strongly suggests that you minimise placing yourself in temptation's way.

In the nicest possible way, we say that we hope that we do not see you in this Court again, but that you will invite us all to party when you deliver as a chef the fine food that your abstinent life can deliver to delight the palates of your future diners.

Congratulations and the best of wishes for a successful future that this incredible future offers which has opened before you. Grab it with both hands and make it your own.

I will now ask Justice Loukas-Karlsson to give you a quote chosen specially for the occasion, as her Honour does, to wish you well, and Chief Magistrate Walker to offer her best wishes.