

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

DRUG AND ALCOHOL SENTENCING LIST

SPEECH OF ACTING JUSTICE REFSHAUGE ON THE OCCASION OF THE GRADUATION OF JAYKE FLEURY

19 January 2024

Friday is a good day in the Drug and Alcohol Sentencing List of the ACT Supreme Court. The Participants who are subject to a Drug and Alcohol Treatment Order attend court for a review of their progress under the Order. It is wonderful that we largely receive reports of positive progress towards a drug and crime free life and the future that these participants seek in the community. Even the few whose progress has stumbled a little are almost always keen to improve. They accept that some sanctions may have to be imposed. They know, however, that these obstacles can be overcome and to do so will give them the added strength to complete the program and achieve the future they seek. Some do badly, which is sad and we regret it.

Today is, however, even more wonderful. You, Jayke Steven John Fleury, have completed the Treatment and Supervision part of the Drug and Alcohol Treatment Order made for you on 25 October 2022, now nearly fifteen months ago and, today, you will be graduating from it.

It is very appropriate that we celebrate all such graduations. They recognise the exceptional hard work and commitment of the graduates, who have addressed their drug and alcohol dependency with which they have lived for many years - in your case for very nearly thirty years, most of your life!

All this makes it a great day for you, your family and friends, but also specially for the Court and for the community. It is an achievement of which you, Jayke, can be justly proud. It is a recognition to your loved ones and friends of how far you have come and what an exciting future you have before you - and them. It is also an example of how you are a role model for others in the program who can see your success. They can join in the celebration, but also be encouraged and enthused by it.

This celebration is, of course, being held on the lands and waterways of the traditional custodians of this country for which they have provided care over many centuries. They have never ceded their sovereignty to this country. We pay our respects to their elders, past, present and emerging. We celebrate the contribution they have made and continue to make to our culture. We welcome all Aboriginal and Torres Strait Islander people here present. I commit myself to personal acts of reconciliation.

Our commitment must not be an empty symbol, but a promise of action. Our First Nations brothers and sisters are, of course, members of our community, our neighbours and our friends.

This is also an important day for the Team and the other providers of services and support, counsellors, residential drug rehabilitation facility staff members and others, for we all celebrate, too, and are so grateful for the gift that every graduate gives us in

showing how worthwhile is our support and care. It is important to acknowledge these efforts, commitment and confidence in you and you succeeding.

The members of the community, too, can celebrate because someone, who has not had the success that you have had, is likely to be a risk to the safety and security of those members and their property. This also contributes to the reduction of crime, apart from family violence, since 2019, reported last Tuesday.

So, we are celebrating today that you, Jayke, are now making the transition to a drug free and crime free life. That is a great contribution to the community, which will enhance it as a safe and secure place and to which you will contribute. It is also, of course, a real thanks that you give to this Court, to all the members of the Treatment and Supervision Team and to all the other workers who have contributed to your rehabilitation and given so much, also, to making the List the great institution in this Supreme Court that it has become. This is the thanks we appreciate, though it is, of course, nice to be thanked. On that measure, you have greatly thanked us.

As you go forward, we celebrate with applause the confidence we have that you can build your future, a future where you can thrive, enjoy yourself and know that the days of drugs and crime are behind you, seeking the future that you want.

When we celebrate in this way, we think of you, Jayke, going off to join that great company of graduates who are now living their lives without drugs and crime. It is extraordinary that it was only in 2019 that we in Canberra joined the other drug courts, relying on the research, the professional practice and the great experience now accumulated around the world, including of peers who have passed through these courts and shared their stories, when we build these wonderful institutions of change and support for those offenders seeking a better way to live their lives.

It is a matter of great gratitude and pride that the ACT Government has continued to provide and, indeed, increased support so that people like you can reshape their lives and themselves, help this community to be a place where every member - including you, Jayke - can pursue their wishes and hopes as well as achieving a happiness that everyone deserves to be able to find. To our great delight, the government has agreed to expand it, bringing more graduates and graduations.

It does not seem fifteen months ago, Jayke, that you became a participant meeting me for the first time. You had a slightly false start before that, when, on 6 May 2022, then Acting Justice McWilliam, now Justice McWilliam, who we are delighted to welcome here with us, convicted you of seven offences of drug trafficking, violence and dishonesty, took into account an additional offence and found that the convictions had breached two good behaviour orders. Her Honour sentenced you to a total of three years nine months and 22 days' imprisonment and a fine.

Her Honour wanted to make a Treatment Order, but felt constrained by the limits on places available. The Court of Appeal held, however, that her Honour, despite that limit, still had power to make a Treatment Order and returned the proceedings back to her where her Honour then made the Treatment Order as her Honour had always wanted to make That was such a right call.

Her Honour was confident that you were able to meet the challenge of such an Order and that you could succeed in the proposed rehabilitation, so made a Treatment Order. This privilege allowed you to serve your sentence, not in prison, as usual for such offences, but in the community, though subject to engaging in your rehabilitation and then your re-entry into the community without committing crime. You took up that challenge and embraced that opportunity, leading to this happy day.

You had a difficult childhood, exposed to drug use and some violence. You were surrounded, however, by some pro-social family and gained much support from them. You really went off the rails at about the time when you would have been going to high school. You first drank alcohol and smoked cannabis aged nine and by about age 12 were smoking daily. A wide range of other drug use followed. You struggled at school, leaving formal education before going to High School.

You had a lengthy criminal history, including convictions for burglary, theft, aggravated robbery, and assault. You demonstrated a pattern of re-offending when in the community. Perhaps, this was a very good time for you to be subject to the Treatment Order, to try and stop the entrenchment of crime.

You started at the residential drug rehabilitation program at Canberra Recovery Services and graduated from there. You then continued treatment, but also enrolled at the Australian Catholic University in its impressive Clemente Program.

As for each graduation, I re-read the reports that I received each time you appeared for review in Court. They record your journey, showing that, almost invariably, I described your progress as "Going Well".

You did agree to engage in a Restorative Justice process, which showed a great empathy by you and magnificent insight into your previous behaviour. That resulted in a satisfactory result.

Your progress was impressive and, on four occasions, you were applauded by all those in the Court for the achievements and advances you had made, in addition, of course, to the applause for your graduations to Phase 2 and Phase 3.

You really worked hard and applied your obvious skill and intelligence to succeeding and, with only a formal warning for a slight contretemps, received no other sanctions and certainly no points. It was an excellent record.

Like all participants, you benefitted from the untiring work of the stunning, highly professional, and committed members of the Treatment Order Team of the programme. You are smart, thoughtful and empathic enough to recognise and appreciate the essential support that they provided to you. They helped you to face and gain an insight into your dependency and the challenges that you have confronted and will have to confront. Through their help, you were able to find and use the skills and strengths which you already had. This enabled you to manage that dependence and understand where you needed to change your actions and habits. You gained great support, but, in the end, you have done it. All the members of the Team are, of course, proud to have been able to support you. I am sure that you are grateful for their support and that you have thanked them. I thank them, too.

While the whole team and your counsellors and others were proud to help you, only you could make the advances you have and reached the triumph as you have now done. Only you could achieve your rehabilitation. You have succeeded, but you have done so well that we are able to graduate you at an early stage, before the set Treatment and Supervision period expires. Be justifiably proud of that.

It is a great delight that you are exploring the possibility of taking on a role as a peer supporter, an important and, in some ways, much underestimated role in the List. You will be able to give back and also experience the pleasure that the members of the Team gain from their support of participants.

You still have a period of the sentence, the balance of the Custodial Part of the Treatment Order, under a Good Behaviour Order, to complete in the community, unless you breach it. You will be subject to supervision by the Commissioner of ACT Corrective Services or his delegate, but, if that proceeds well, it can also be ended early. You will, too, not have to return to Court unless there are some problems. That will, no doubt, delight you! I will miss your appearances. I am confident that you will manage without any problems.

You will, of course, like all participants, and others who have lived with drug use and crime, continue to face challenges and temptations into the future. Your success, in this program, however, shows your strength of character and that you can achieve what you set your mind to do. You also have access to some ongoing support if you need it. I believe that you can meet the future dangers, avoiding or overcoming them. Alcohol and drugs will still be a temptation for you, but you have the power to succeed - mastering the urge rather than letting it master you.

You, Jayke, cannot ignore your past, but do not let it define you. Look forward with clear eyes focussed on the future that you see for yourself and your loved ones. You will live in the future, built on, but not bound by, the past.

We say to all graduating participants, in the nicest way, that we hope that we will not see you again in this Court - or, indeed, in any other Court. We hope that your journey through life will be happy and fulfilling for you, achieving all you want.

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

Acting Justice Refshauge
ACT Supreme Court