

SUPREME COURT OF THE AUSTRALIAN CAPITAL TERRITORY

DRUG AND ALCOHOL SENTENCING LIST

SPEECH OF ACTING JUSTICE REFSHAUGE ON THE OCCASION OF THE GRADUATION OF GRAHAM STEPHEN O'NEIL

11 November 2022

For the second time in a fortnight, we are celebrating the commitment and hard work of a Drug and Alcohol Sentencing List participant who has graduated.

Graham Stephen O'Neil, you join a distinguished group of those who have successfully managed to complete a prescribed course of drug rehabilitation under a Drug and Alcohol Treatment Order so as to manage your dependency on drugs and commit yourself to a crime-free, worthwhile and happy life. It is a time for you to celebrate and we here, as well, indeed, as the whole community, will celebrate that and congratulate you as well.

Once again, we are proud and excited to gather at this graduation and recognition of the success of a participant in the Drug and Alcohol List of the Supreme Court of the Australian Capital Territory. This is also a celebration of the work of the incredibly committed and supportive Treatment Order Team of the Court, who have supported, advised and counselled you through this time. Nevertheless, Graham, this is your day for you are the one who has achieved this.

This celebration is, of course, being held on the lands of their traditional custodians, who have never ceded sovereignty over them. I pay my respects to their elders, past, present and emerging. I welcome all Aboriginal and Torres Strait Islander people here present. I commit myself to personal acts of reconciliation.

You, Graham, have successfully completed the three phases of the drug and alcohol rehabilitation programme prescribed for you, that is stabilisation, consolidation and integration, with the aim that you become abstinent from the use of illicit drugs and able to manage your dependency, remain crime free and re-integrate successfully into our civilised community. We are quietly confident that you, as with the other graduates from the Programme, can now do that. We are confident also that you have seen the value of the life you are now leading without drugs and crime, of having a job and that you have gained the skills and strength to remain abstinent and crime free. We all celebrate your achievement.

On 13 August 2021, you were convicted and sentenced to 18 months imprisonment for drug and other offences, but you have been privileged, by participating in the Drug and Alcohol Sentencing List, to avoid serving that sentence in custody.

The Program is based on a then new approach, supported by research, to addressing the use of drugs and the associated drug-related crime. It originated in the USA and consists of intensive therapeutic interventions supported by judicial

supervision. We are fortunate that the ACT Government has agreed to support it and pay the significant funds needed to put it into practice. Clearly, the Government sees the value to the community and its members and to participants and their families of the rehabilitation of people like you for the reduction of crime, the increase in the health of the community and the improvement of lives such as yours. Now, an ANU review of our program, shows that our Programme does work and you, Graham, are another great example of that success, showing how worthwhile that investment is. It gives back to persons with an alcohol and other drug dependence a life without such use and all the problems that it has brought you and others. Participants like you are a living proof of its success.

When I sentenced you, the evidence was clear that, instead of requiring you to serve that term of imprisonment, I could confidently make a Drug and Alcohol Treatment Order for 15 months from the date of the Order. The Order will end on Sunday, though you will, of course, be under a Good Behaviour Order with a probation condition until the end of the sentence.

While you had a good upbringing, you had some problems as a child. You also had a significant criminal history, but clearly related to your drug use. You have a good relationship with your family, a valuable support and help for stability. Your drug use started at a very early age, but you had had no drug treatment. You committed yourself to the program, however, and managed to succeed, a success of which you, as you are entitled to be, should be very proud.

I have re-read the reports I received each time you appeared for review in Court. Almost every one showed that you were doing well, though, as with everyone, you had some struggles along the way. You were congratulated for your honesty, willing participation and engagement. You graduated into Phase 2 in minimum time, but then did have some lapses at the beginning of this year. You managed to get over these problems, learn from them and get back on track, clearly having gained strength and more control over your life. You accepted some restrictions, especially with travel, but with a good grace and settled down to getting on with your rehabilitation.

Unfortunately, however, your lapses led to a delay in graduating to Phase 3. While, no doubt, distressing, you remained committed. This led the Court to continue to work with you and you have been rewarded with this, your graduation. We, too, feel that this is a reward and are sure that these periods are well behind you and that you have the confidence, strength and commitment to get on with the rest of your life, with that past also well behind you.

You found a job, which is really good for you and which, we hope, will set the future. We have been as flexible as we can to facilitate your engagement in work and to support you with housing, family and other matters that you have raised.

The support that you have received from the members of the Treatment Order Team and your respectful work with them has been an important part of your success. I am sure that you have thanked them and others, who have worked with and supported you on this journey, for the part that they have played in your success. While you are no longer subject to their supervision, there is still an opportunity for you to seek their

advice and counsel if you need it.

At the end of the day, however, only you can have achieved this success. While all the Team work hard to support and assist you in this, and I am grateful for them in this work, you are the one who can confront your behaviour and dependence and achieve the success that you have. At the end of the day, it was all upon you.

You can, of course, have some access to members of the Team and positively use the probation condition under the Good Behaviour Order, as you have used the supervision under the Treatment Order.

You did succeed very well and, here you are, graduating. You are, and are completely entitled to be, very proud of what you have achieved; the remarkable changes that you have made.

There will, of course, be temptations and you need to take care for the risks that you will face. Every life is full of challenges and yours will be no exception. I believe that, with the determination that you have shown here and the skills that you have learnt, you can meet such challenges, avoiding or overcoming them. Drugs can still be for you a temptation, but your progress and what you have learnt and experienced, especially the successes that you have achieved under this Programme, will give you a real platform from which to continue with a normal life and avoid further criminality.

You have shown that you are able to manage your dependency and to master it rather than to let it master you. I am confident that you will be able to put these skills into practice in the community where there are no similar protections. I am confident that, with what you have learned and gained from the Programme, you will succeed as have others before you. We are proud of the successes that all the graduates have achieved and are confident that you will continue that tradition.

In the nicest possible way, we say, as we say to all graduating participants, that we hope that we do not see you again in this Court - or, indeed, in any other Court. We hope that your journey through the rest of your life will be happy and that you will achieve everything you wish for yourself.

I often also say to participants that we do not ask you to thank the Court for this Programme, not because we are not happy to be thanked - we are - but because the best form of thanks to us is the successful graduation of a participant and their ability and determination to live a drug and crime free life. On that measurement, you have, so far, expressed a very generous thanks to us and I hope that this will continue.

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

Acting Justice Refshauge
ACT Supreme Court