

ACT SUPREME COURT
DRUG AND ALCOHOL SENTENCING LIST

SPEECH OF ACTING JUSTICE REFSHAUGE ON THE OCCASION OF THE
GRADUATION OF DEAN SIMONDS

19 NOVEMBER 2021

Dean Simonds, this is an important day for you, for this Court and for the community. You have graduated from the Program of the Drug and Alcohol Sentencing List by completing the drug rehabilitation prescribed for you and by transitioning, ultimately successfully, through the three phases of that program of the Court, with the intention that you become abstinent from the use of illicit drugs, be able to manage your dependency on those drugs and remain crime free. We are confident that you can see the value of the life you are leading without drugs and crime and have gained the skills and strength to remain abstinent and crime free.

This celebration is, of course, being held on the lands of their traditional owners, 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, especially you, Dean. I commit myself to personal acts of reconciliation.

We are fortunate in this Territory to have taken many creative steps over the years to address the harms caused by the use of alcohol and other drugs, which can also cause people great harm, to themselves, including as offenders, committing crime and going to gaol, and to their families, the victims of their crimes and to the community. I will not detail the steps, but they include a number of diversion schemes as well as programs for victims, restorative justice and cannabis expiation notices. The ACT Legislative Assembly is currently considering the decriminalisation of certain drugs.

Among the initiatives that have been shown to provide significant benefits are programs of intensive therapeutic interventions supported by judicial supervision, which has been shown by many international and local research to have worked. In Australia, where every State and Territory now has such programs, they are, elsewhere, usually established as separate courts at the Magistrates, District or County Court level. Here in the Territory, we have been again innovative and established it, not as a separate Drug Court, but at the Supreme Court level as a sentencing option managed as a separate list, the Drug and Alcohol Sentencing List, which I currently have the honour - and delight (mostly!) - to manage. It provides the same post-sentencing alternative with treatment and supervision for offenders committing crimes that justify the relatively serious penalty of one to four years imprisonment. The aim is to help offenders change their lives and to be crime and drug free so that they can focus on the potential that most offenders have for meaningful work, having and caring for a family, other personal pursuits of value and participating in the community in a meaningful way. Your graduation, Dean, is a living example of this success.

Just twelve months ago tomorrow, Dean, you were convicted of serious offences,

some committed with a co-offender. You were sentenced for two crimes of aggravated burglary. In the first, one of you drove a vehicle into the wall of a store in Fyshwick, causing \$33,000 worth of damage, and then you both stole \$14,000 worth of electrical goods. In the second, you drove into an apartment building's underground car park, senselessly damaging property there and stealing various items. In all, you were convicted of ten offences and sentenced by Chief Justice Murrell to a total period of 3 years and 6 months imprisonment. Her Honour then made a Treatment Order.

You had a lengthy criminal history, obviously largely related to your drug use, recording crimes committed here and in Queensland, New South Wales. You were 38 and had limited employment, but you showed an interest and a motivation for reform, at the age when many feel the waste of their lives which dependency on illicit drugs can cause. You completed the Solaris Therapeutic Community program in custody and, indeed, sought an adjournment of your sentencing so that you could complete it. This was a good sign of the likely success in rehabilitation, which has been proved to be correct.

You have taken the program seriously and progressed well, though an injury to your back did, for a short time, interfere with your participation.

You are an indigenous man and are rediscovering the pride that this should bring to you. You have connected with the wonderful heritage you have of the oldest living culture in the world, which has a rich tradition that relies on the values of self-control, self-reliance, courage, kindness and friendship, empathy and a holistic sense of oneness and independence, reverence for land and Country and a responsibility for others.

This led you to participate in a Connection with Culture program, beginning with a gathering around a pit fire and a wonderful learning tour of Namadgi. You have continued with the weekly gatherings.

You managed to work on your parenting skills, as you had lost contact with your children through your drug use, and you have now had great contact with your youngest child, your 14-year-old son, and that, I have seen, is a valuable experience, showing how the superficial enjoyment of drugs does mean the loss of other experiences which are often much, much more important. You have worked on the relationship with your partner and both completed the Circle of Security to give you a better understanding of parenting.

You also managed to take seriously step 8 of the Narcotics Anonymous 12 steps and make amends to many for the harm that you, through your drug use, have caused others.

One of the great contributions you have made is in your art, the wonderful paintings you have been able to create. I am proud and affirmed weekly by photographs of four of them, which grace the inside and outside covers of the folder that I use every week to hold the regular Status Reports I receive about progress of each participant being then reviewed.

I still have and also value the 27 photos that you sent of your restoration of a utility vehicle into what is now also quite a work of art.

You suffered from COVID-19, which led you into problematic quarantine. Because at the early stage you had visited the Court, we all had to be tested, leading me to wait in line for testing at the airport for 6 hours - 6 hours of my life I will never get back!

I trust that you have thanked the impressive, supportive, patient, professional members of the very expert Treatment Order Team, who have assisted, guided, counselled, supervised and supported you. 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.

There will 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, you can meet such challenges. 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 can minimise placing yourself into temptation's way.

In the nicest possible way, we say that we hope that we do not see you in this Court - or, indeed, in any other Court - again. We hope that your journey will be happy for you and bring blessings for those that you care for and who care for you.

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.

Acting Justice Refshauge
ACT Supreme Court