

STATE OF TASMANIA v NICHOLAS ROBIN CLARK
COMMENTS ON PASSING SENTENCE

4 MARCH 2020
BLOW CJ

Mr Clark has pleaded guilty to a charge of armed robbery. On 3 March 2019 he robbed a man of his mobile phone when he was armed with a pair of scissors.

He had been using Ice that day. He was intoxicated and paranoid. The complainant was writing a message on his mobile phone when Mr Clark saw him, jumped to the conclusion that he was using the device to photograph him, and feared that he would send his photo to a person to whom he owed money. He seized the phone from the complainant and began to walk away. The complainant followed him, quite reasonably asking for the return of his phone and saying that he needed it. Mr Clark had the scissors tucked into his waistband. He turned around to face the complainant, lifted the front of his T-shirt a little, and resumed walking away. When the complainant continued to follow him, he again turned around, faced the complainant, and lifted his T-shirt, this time saying that he had a knife. The complainant stopped following him, and got someone to call the police. Mr Clark threw the phone away, hoping that it would be smashed. The police were unable to find it. He was arrested and disarmed shortly afterwards.

The complainant did not provide a victim impact statement. He did not ever get his phone back. Mr Clark was 38 years old on the day in question and is now 39. He has been a regular cannabis user since he was 15, and a regular methylamphetamine user since he was 17. Before his arrest he was spending \$100 to \$150 per day on methylamphetamine, and \$300 per fortnight on cannabis. He has been unemployed for 10 years. He has many prior convictions for dishonesty, drug and driving offences. His prior convictions include eight for assault, one for wounding, one for assaulting a police officer, and one for assaulting a public officer. He has spent a lot of his adult life in prison.

He had a very disrupted and dysfunctional childhood and adolescence. His father left the family home when he was about 6 years old. His mother was an alcoholic. He was made a ward of the State and lived in a number of foster homes. He ceased his education at the end of year 8.

A court diversion officer has reported that he is unsuitable for treatment by the Court Mandated Diversion program and at very high risk of re-offending. It follows that the only appropriate penalty is a prison sentence. Mr Clark was initially granted bail on 4 March 2019, the day after he was arrested. In August 2019 he failed to appear in court. He was arrested on 13 August, and was bailed again on 15 August. In September he again failed to appear. He was arrested again on 20 December and has been in custody ever since. To allow for the time that he has spent in custody, I will backdate his sentence to 15 December.

This was a spontaneous robbery, not a planned one. It was not carried out for financial gain. However I see this as a case where the need to protect the public is a significant sentencing factor. I will make provision for parole in case the Parole Board considers that it is desirable for Mr Clark to have conditional freedom under supervision before his sentence expires, but the non-parole period will be a long one because of the very high risk of Mr Clark re-offending.

Nicholas Robin Clark, I convict you and sentence you to two years' imprisonment with effect from 15 December 2019. You will not be eligible for parole until you have served 18 months of this sentence.