

STATE OF TASMANIA v JYE DAVID COWEN
COMMENTS ON PASSING SENTENCE

ESTCOURT J
15 MAY 2020

In relation to the defendant's plea of guilty on the count of perverting justice contrary to s 105 of the *Criminal Code*, the particulars are that, on or about the 25 September 2017, with the intent to obstruct, prevent, pervert or defeat the due course of justice, namely to prevent Michael Hopkinson and Jesse Leigh Fletcher-Jones from being dealt with in a court of law for armed robbery, the defendant lied to members of Tasmania Police who were investigating the armed robbery.

On that date Fletcher-Jones entered the hotel and committed an armed robbery. He approached the gaming counter in the lounge bar, and held a rifle at the face of the hotel's Duty Manager and told him to place cash into a calico cash bag, which he did, in the sum of some \$2500. It was a serious armed robbery.

At 8:04pm on Monday 25 September, police executed a search warrant at 24 Corranga Drive in Chigwell. Fletcher-Jones and the defendant were both located inside the house and in the course of the search, the police located a single black glove and a fire in which items of clothing were burning.

At the conclusion of the search Fletcher-Jones was arrested and the defendant agreed to accompany police to the Glenorchy Police Station to participate in an interview. The purpose of that interview was to interview him in relation to the unrelated matters, however whilst he was there, he was asked about his knowledge of events at the Elwick Hotel on the morning of 25 September 2017. He denied any knowledge of the robbery.

When asked about the jumper that was found burning in the backyard when police arrived at Corranga Drive, the defendant denied any knowledge.

Police enquiries into the circumstances of the armed robbery continued after the interview with the defendant. In the course of those enquiries police obtained information that suggested that the defendant, contrary to what he had said to police in his interview, was aware of the circumstances of the armed robbery on 25 September 2017.

On Wednesday 4 October 2017 in the course of a second video interview the defendant admitted that he was an occupant of a Green Mirage vehicle which was parked outside the Elwick Hotel at the time of the armed robbery, and that he had travelled in convoy with a stolen vehicle used by Fletcher Jones.

He then stated that he was aware of what had happened at the Elwick Hotel and did not want himself put anywhere near it because he was worried that he would get blamed for something he had not done. He said that he knew nothing about the robbery of the Elwick Hotel until it was done. He said he was not aware of what happened inside the Elwick Hotel. He said that he had not ever seen Fletcher-Jones in the clothing that he was in when he committed the robbery, and that the first time he saw that clothing is when he saw it on fire the following day. He did not assist Fletcher-Jones in burning the clothing.

The Crown asserts that the lies told by the defendant about his knowledge of the armed robbery in the first interview were acts done with the intention of, and which had the

tendency to, pervert the course of justice, in the sense that they were calculated to obstruct or prevent contemplated proceedings against Fletcher-Jones or Hopkinson for the armed robbery. The falsity of the statements the defendant made in the first interview was clearly demonstrated by his admissions in the second interview on 4 October 2017, but that second interview occurred after investigating police had already obtained the evidence.

The defendant was initially charged on complaint with armed robbery. He pleaded not guilty to that charge on 11 January 2018, and was committed to the Supreme Court for trial. The matter was subsequently reviewed by the Crown and in June 2018 an indictment was filed charging the defendant with armed robbery, but at the same time he was informed, through his counsel, that the Crown would accept a plea of guilty to a charge of perverting justice in satisfaction of that indictment. That proposal was accepted and the defendant pleaded guilty.

The defendant has no relevant prior convictions.

At the time of committing this offence the defendant he was subject to a two month suspended sentence of imprisonment and a probation order, both imposed in the Hobart Magistrates Court on 1 June 2017. Both sentences have since been activated for other offending.

I have outlined the defendant's personal circumstances in relation to the sentence I have just passed for firearms offences and I will not repeat them.

His counsel asks that I take into account his early plea of guilty following the amendment of the indictment, and that a short time after the commission of the crime, the defendant co-operated with police and made appropriate admissions. I do, but in light of the comments I have already made.

Perverting justice is a serious crime for the self-evident reason that it undermines the administration of justice. That is why it usually attracts a prison sentence, most often, except in serious cases, a period of six months. Having said that, there are some unusual features of the present case. They include that the defendant was under police questioning at the time in respect of other matters when he told the lies and that his lies were extremely unlikely to deflect the police from the investigation of Fletcher-Jones and Hopkinson. The defendant was entitled to decline to answer the questions put to him by police and had he done so the police would have been in the same position as they were left in after the defendant told them lies that they obviously didn't believe. The defendant could and probably should have simply declined to answer the questions. Perhaps he didn't because he was concerned about his own position in being present near the scene of the armed robbery. It goes without saying, that the defendant was also concerned to protect Fletcher-Jones and Hopkinson, indeed otherwise there would have been no basis for his plea of guilty to the indictment.

The defendant is convicted and sentenced to 3 month's imprisonment to commence at the conclusion of the backdated sentence I have just imposed in respect of the firearms offences.