

**BRETT J**

Mr Benjamin, you have pleaded guilty to one count of burglary and one count of stealing.

The crimes were committed by you during 2018 or early 2019. At the time, you were living with your grandmother in a property being rented by her in Moonah. The landlord was the brother of her late partner. There was a shed on the property that was not part of the rental arrangement. The shed contained four vintage motor vehicles owned by the landlord. Although the precise value of the vehicles has not been agreed or established, it is accepted by you that they were vehicles of considerable financial value and also of significant sentimental value to their owner.

At the time you committed these crimes, your uncle was also living with you. You were unemployed at the time and were using cannabis heavily. This was causing considerable financial impact on you. Your uncle was also a heavy drug user and was keen to obtain money. You and he entered into a joint enterprise to break into the shed and steal the vehicles. It seems that the stealing may have been a gradual process, which involved removing and selling parts from each vehicle to vintage car enthusiasts. Eventually, the remaining vehicle shells were also sold. None of the purchasers was aware that the vehicles and the individual parts had been stolen.

It is asserted and not disputed by the prosecution that you believed at the time that your grandmother had inherited the vehicles from her late partner. You did not realise that they were owned by someone else, nor did you appreciate the actual financial value of the vehicles. Further, because you did not know they were owned by someone other than your grandmother, you did not realise that your crimes would impact on the sentimental attachment of the owner to the vehicles. You have expressed remorse generally, including in respect of this consequence of your conduct. I accept this version of events, but of course your moral culpability must still be assessed on the basis that you were consciously stealing from your grandmother. You were doing so for profit and although the idea had been suggested by your uncle, who is older than you, you were old enough to know that what you were doing was wrong.

All of the vehicles have now been recovered, but not all of the stolen parts. Accordingly, the vehicles cannot be restored to their original condition. This has impacted significantly on their financial value. They were not insured by their owner and he has suffered significant financial loss, as well as the emotional impact resulting from the permanent damage to the vehicles. I imagine that some of the purchasers have also incurred some loss.

You are now 23 years of age and you were 21 when you committed these crimes. You do not have a record for dishonest offending. Your criminal record consists only of traffic offences. You are currently in permanent full-time employment as a fruit picker. You have a child aged 4 with whom you have regular contact. You had a difficult family life as a child and your grandmother took you in after conflict with your mother's new partner had forced you to leave home at the age of 14. Your criminal conduct has had a significant impact in respect of your family relationships. The owner of the property, not surprisingly, evicted you grandmother and you because of what you did. For some time, you and she had nowhere to go and were forced to live with your mother and her family, which placed pressure on everyone concerned. Your counsel says that you are very aware of the impact of your offending on others. I infer that you are also ashamed of your disloyalty towards your grandmother. I am told that you are still with her and that you have apologised to her.

These are serious crimes which could have seen you sent to prison. The offending deserves the imposition of a sentence of imprisonment. However I am not going to take that course on this occasion. I accept your counsel's submission that you are still a youthful offender and that although your offending involved a deliberate and sustained course of conduct, it can also be regarded as out of character. You should also be given credit for your early plea of guilty, which was entered in the Magistrates Court. I think emphasis should be placed on rehabilitation and you should be given the opportunity to demonstrate that you are a person capable of leading a law abiding life and making a contribution to society as an honest person. You will, of course, carry a conviction for this conduct on your record, which, given your age, will itself involve not inconsiderable punishment. I would also have considered the imposition of a fine, but I would rather see you put whatever money is available to you towards paying compensation to the property owner. A screening assessment has recommended community supervision, although the capacity of community corrections to support such an order is currently affected by the health crisis. As I have already discussed with counsel, I intend to take the option of adjourning the proceedings before I actually make the orders that I am contemplating making.

I will, today, convict you of the crimes to which you have pleaded guilty, and will indicate that my intention is to make a community correction order. I think that such an order will achieve the aims of rehabilitation. It will involve obligation and ongoing commitment and hence in itself will constitute some punishment and when taken together with the impact of the conviction, I think will provide adequate punishment in the circumstances of this case.

Pursuant to s 68 of the *Sentencing Act* 1997, I order that you pay compensation to Ivan Gray in a sum to be assessed and I adjourn assessment of that sum sine die.

The matter is adjourned until 10am on 24 June 2020, in the hope I will be in a position to make the relevant orders at that time.

## **24 June 2020**

[His Honour referred to sentencing comments on 19 May when he indicated that he intended to make a community corrections order.]

You must comply with the order for a period of 12 months, and that period shall commence today (24 June 2020). The core conditions of the order require you to report to a probation officer and you shall do so at the office of Community Corrections in Hobart within three clear days of today. In addition to the core conditions the order shall also include the following special conditions:

- 1       you must, during the operational period of the order;
- 2       attend educational and other programs as directed by the Court or a probation officer;
- 3       submit to the supervision of a probation officer as required by the probation officer;
- 4       undergo assessment and treatment for drug dependency as directed by a probation officer;
- 5       submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.