

Ms Bryan, I must accept the factual scenario that has been put to me, that you were in a vehicle, and you were heavily intoxicated. Unbeknown to you, a person in the back seat of the vehicle went into the BP service station and committed an extremely serious crime with the use of a firearm. You were not aware of any of that. You knew nothing about what had happened until, as Mr Ransom has just explained to me, one item of property, the product of the armed robbery, a packet of cigarettes, was handed to you. You later became aware of the origins of that packet. By that stage, you were in possession of the packet, so at that point you have in fact committed the crime.

There are two matters that potentially concerned me about your moral culpability in relation to this. Firstly, the origin of that packet. While a packet of cigarettes, in terms of property, is relevantly minor, the origin of the packet involved the commission of a serious crime, which involved the production of a firearm to an innocent person. So that crime itself, the origin of the packet, was extremely serious. The other matter is that, if knowing that, you took possession of the cigarettes and retained them and used them for your own benefit, and did that without any real care about where they had come from, then I would be very concerned about your moral culpability for this crime. However, it has been explained to me that you had no involvement in this until you were given the packet. When you were given the packet, it seems you did little, if anything, with it, and I note that it was recovered by police on the floor of the premises. So, I am going to accept that your involvement in this was fleeting and marginal.

You have committed the offence, there is no doubt about that. But when I have regard to your antecedents, I do not use the same terminology as your counsel, you do have a prior record, and all of those offences involve a disrespect for the law, but I accept that there is nothing in there that indicates you are a person who offends dishonestly, or offends in the serious way that occurred in this case in order for the cigarettes to be stolen. So you should not be tarred with that brush. I accept that.

You have had to come before the Court. You have had to endure a lengthy lead-up. This has been hanging over your head for a long time. Given that your limited involvement has only been determined after obviously a lot of hard work, but after a considerable period of time, I accept that you pleaded guilty at the earliest opportunity, and you should be given credit for that, but I also take into account that you have had this hanging over your head. So I have regard to all of those circumstances.

I think the case can be appropriately dealt with and marked in the way that your lawyer has suggested. I will not record a conviction, and I will release you upon accepting an undertaking, or a promise from you, to be of good behaviour for a period of 12 months from today. Provided you comply with that undertaking, there will not be any further penalty imposed.

I make a compensation order in favour of BP Australia Pty Ltd in an amount to be assessed. I adjourn the assessment sine die.