

Mr Hall, you have pleaded guilty to one count of possession of firearms when subject to a firearms prohibition order. You have also pleaded guilty to the following associated summary offences: two counts of possession of firearms without a licence, and one count each of possession of ammunition without a licence, possession of cannabis, breach of an interim family violence order and a bail order, and unlawful possession of dangerous articles in a public place.

All of the offences relate to items found in your possession during the search of a motor vehicle occupied by you and your partner. The search was conducted, and the offences committed, on 29 June 2018. The crime relates to an imitation 9 mm Glock pistol and a taser found in the vehicle. The pistol was not capable of discharging live ammunition, and was capable only of propelling small plastic projectiles. A ballistics expert has, however, opined that because of its physical features and appearance, it could easily be mistaken for a genuine pistol. Also found in the vehicle were 41 rounds of .22 ammunition, an expandable baton, a folding hunting knife, and 3.8 g of cannabis. The offences related to the family violence and bail orders were committed by your possession of the firearms and ammunition in breach of conditions of those orders.

The serious aspect of your possession of the pistol and the taser is the contravention of a firearms prohibition order, which had been served on you on 9 May 2016. It is not difficult to understand why such an order may have been issued. You have a lengthy and serious criminal history, dating back to 2006, which includes many firearms offences. Some of the latter appear to be quite serious. In 2011, you were sentenced by this Court for one count of aggravated assault, which involved the threatening use of a firearm in a family violence context. In 2013, you were sentenced to 19 months' imprisonment for a number of offences, which included several related to firearms and two aggravated assaults. Clearly, the point of the order was to prevent you from having anything to do with firearms. Having possession of a firearm in breach of such an order has been included as a crime under the *Criminal Code*, and it is clear that Parliament's purpose in doing so was to emphasise the serious nature of the crime. Your counsel submits that I should distinguish between possession of an imitation firearm and one which is fully operative, for the purposes of this crime. Clearly, there is a distinction between the two, but your possession of the imitation firearm is still a serious matter. The imitation is clearly defined as a firearm under the *Firearms Act*. Its appearance meant that it was capable of use in a threatening manner. There is, of course, no suggestion that you had the firearms with the intention of using them, but your mere possession of them constituted a serious breach of the law.

The summary firearms offences are also serious. The other offences relating to your possession of the pistol and the taser without a licence, and in breach of the bail and family violence orders, increase your moral culpability for the possession of those items, but of course, you must not be punished twice for what is, in effect, the same offending conduct.

You are 37 years of age. Your criminal history includes conviction for many offences, other than those related to firearms. You have had a serious drug problem since your teenage years and this is consistent with a number of drug-related and dishonesty offences on your record. I am told by your counsel that your drug problem started when, as a teenager, you were prescribed dexamphetamine by a psychiatrist. The psychiatrist prescribed this drug incorrectly,

but unfortunately your exposure to it rendered you vulnerable to developing an addiction to related illicit drugs. You have struggled with this problem ever since. The psychiatrist has since been deregistered for misconduct. I am told that, notwithstanding your drug problem and criminal record, you have maintained an excellent work history and have well-regarded experience in building and construction. There is work available for you upon release from prison. You have now been imprisoned on remand for an aggregate of 336 days. None of this time is attributable to any other sentence and I been asked to backdate this sentence for that period. Clearly, it is appropriate to do so.

Your counsel also submits that despite your poor criminal history, you have now reached a point in your life at which you are ready to make a commitment to change and, in particular, to getting on top of your drug problem, and to leading a law abiding life. Your counsel has detailed many positive rehabilitative steps taken by you while in custody with a view to pursuing such change. Your motive for doing so is closely related to your strong relationship with your current partner and the 1-year-old child which you have together. I am told that you have keenly felt the separation from your family while in custody. Although I am sure this has been hard on you, your family does provide you with an excellent reason to rehabilitate, and I am prepared to accept that you are genuine about doing so. I will accept what is, in effect, an early plea of guilty as some evidence to support this conclusion.

Although these personal factors are important sentencing considerations, the predominant sentencing consideration in respect of the contravention of the prohibition order must be general deterrence. Such an order must be strictly complied with and those who would not do so must understand that the consequence will be severe punishment. In your case, given your long history of being sentenced for committing firearms-related offences, there was simply no excuse for this conduct. I must, therefore, impose a significant sentence of imprisonment, but I will moderate the sentence to take account of the need to encourage your rehabilitation.

The orders I make are as follows:

- 1 You are convicted of the crime and the offences to which you have pleaded guilty.
- 2 For the crime and all offences, with the exception of those of unlawfully possessing a dangerous article in a public place and possession of the ammunition, neither of which are imprisonable offences, you are sentenced to a global term of 10 months' imprisonment, which will be backdated to 10 September 2019. Because you have effectively served this sentence having regard to the backdating arising from time already spent in custody, I do not intend to provide for release on parole. Accordingly, you are not eligible for parole in respect of that sentence.
- 3 In relation to the offences of unlawfully possessing a dangerous article in a public place and possession of ammunition, I impose no further penalty.
- 4 Pursuant to s 13A of the *Family Violence Act*, I direct that count 8 on complaint 33055/18, which is a contravention of the interim family violence order, be recorded on your criminal record as a family violence offence.
- 5 Finally, I am satisfied that the taser and the imitation 9 mm Glock pistol are tainted property within the meaning of s 16 of the *Crime (Confiscation of Profits) Act*, and I

order that each item be forfeited to the State. I specify the estimated value of the property to be \$100.

As far as I can tell, although I would have the same power as a magistrate when dealing with the possession of ammunition offence, it seems to me that there is no power under the *Firearms Act* (see s 149) to order the forfeiture of the ammunition. Further, I cannot deal with the ammunition under the *Crime (Confiscation of Profits) Act* because the offence is not a serious offence as defined by section 4 of that act. An application will have to be made to a magistrate under s 149.