

The defendant has pleaded guilty to one count of robbery. On 9 October 2012, at approximately 2 o'clock in the afternoon he entered the BWS Bottleshop in Mount Street, Upper Burnie. He was very intoxicated. The defendant had been barred from entry, which led to the assistant manager, Mr Simmons, telling him he was not allowed to be in the store. The defendant responded by picking up a bottle of wine and saying to Mr Simmons he would smash it over his "fucking head". Mr Simmons told the defendant not to be stupid. The defendant put the bottle down on the counter and then said, "I'm gonna take two more bottles and there's nothing you can do about it". He took two bottles of Bundaberg Rum, valued at approximately \$60, and left the bottleshop.

Mr Simmons followed the defendant outside, again, telling him not to be so stupid. The defendant said, "Take one more step and I'll smash this bottle over your fucking face". The two men were about one and half metres apart, the defendant was holding the bottles at chest height and Mr Simmons feared he was going to be hit.

The defendant was identified by police from CCTV footage and he was arrested the following day. The bottles were recovered, one partially consumed. When interviewed, the defendant made admissions. He said to police that he could not recall what happened, he was intoxicated, having commenced drinking the night before.

As would be expected, Mr Simmons found the defendant's conduct disturbing. He needed counselling which has helped. At times, he still feels anxious at work.

The defendant was 20 years of age at the time of offending. He is presently living with his parents and siblings in Launceston. He is employed as a concreter on a casual basis and has good prospects of obtaining full-time work. At the time of his offending he was living independently in Burnie, and he was working as a concreter employed by Hazell Bros. He was drinking alcohol on a daily basis with his peers. In the months before the robbery, he was also taking illicit drugs. He had been using amphetamines for a period of approximately a fortnight and it was during this period that he committed the robbery.

As I have mentioned, the defendant was very intoxicated. His abuse of alcohol has been an ongoing problem and he is prone to binge-drinking. In fact, he lost his employment with Hazell Bros as a result of his drinking. His mental health has been identified as a concern. His current probation order requires that he attend psychological and psychiatric assessment as required but when this matter was previously before me an assessment had not been arranged. Since then the defendant has been assessed and a copy of the psychiatrist's report has been provided to me.

Consultant Psychiatrist Dr Ryan identifies long-standing problems with low mood and mood regulation, and also episodic anger and anxiety. The defendant has been prescribed anti-depressant medication by his general practitioner and this has helped. The defendant suffered a serious head injury when he was 13 years of age and Dr Ryan notes that that injury may be contributing to difficulties with his emotional state. While there is no evidence of major mental disorder, the defendant meets the criteria of conduct disorder and also a diagnosis of alcohol abuse. Further investigation and neurological and psychiatric review are warranted, as well as monitoring of his condition and medication. It is recommended that he engage in therapy for anger management and abuse of alcohol.

The defendant has a history of offending. Of relevance here, he committed an offence of common assault and burglary and stealing as a youth in 2007, and threaten a public officer in 2011. The commission of various offences in August 2012, including motor vehicle stealing, common assault, and stealing, led to the imposition in June this year of a suspended three month term of imprisonment and a period of probation. He is anxious to avoid a gaol sentence and to be given another chance in that regard.

This was a spontaneous crime, a product of extreme intoxication. The defendant's behaviour was unpredictable, which in itself was concerning for Mr Simmons who was faced with dealing with him. Fortunately there were no members of the public present, but it goes without saying that bottleshop attendants should not have to be subjected to this kind of threatening and intimidating behaviour.

I take into account that the defendant has acted responsibly in deciding to return to live with his family and he is willing to receive assistance with his difficulties.

Mr L, I have determined, noting your youth and your willingness to co-operate with community corrections, that a gaol sentence need not be served, subject to you carrying out certain strict conditions.

A conviction is recorded. A term of six months' imprisonment wholly suspended is imposed on condition you not commit any offences that could attract a term of imprisonment for two years. As a further condition, you are subject to supervised probation for two years. I am conscious that you are already subject to a period of probation, so this will run at the same time as your current probation order, and extend the period that you are on probation. Conditions of supervised probation are that you must comply with all the reasonable directions of your probation officer, including conditions relation to your abuse of alcohol and/or drugs, including assessment, treatment and counselling, and directions you attend your treating medical practitioners for investigations, neurological and psychiatric assessment and monitoring of your condition.

Further, as a condition of the suspended sentence you must complete 112 hours of community service.

I make a compensation order in favour of BWS Upper Burnie, adjourned sine die for assessment.

I make the usual victims of crime compensation order.