

STATE OF TASMANIA v T A J C
COMMENTS ON PASSING SENTENCE

3 SEPTEMBER 2020
ESTCOURT J

The defendant T A J C has pleaded guilty to the crimes of aggravated burglary and stealing.

On Friday, 16 August 2019, the complainant secured and left his residence at 21 Boa Vista Road, New Town. At approximately 11am a witness observed four or five males in the street next to Boa Vista Road.

Police attended and observed four males. One of them ran off, throwing things into the yard of 23 Boa Vista Road as he ran.

An LED handheld light, iPhone, firearm scope and two boxes of ammunition were located in that yard. The defendant was squatting down next to a parked car. In front of the rear passenger side wheel was a fob watch, an emerald and diamond ring in a red box, two keys and a pair of green and white gardening gloves. Another of the males was carrying a heavy red fuel tank of the type used for outboard motors. On the footpath next to another of the males was a blue micro-fibre towel.

Three of them, including the defendant, were arrested, and as they were being put in the divisional van a number of foreign currency coins fell out of the trousers of one of them. He was searched at the police station and plastic bags containing more foreign currency, a silver memorial coin in a blue box and an envelope were in his trousers.

At approximately 11.35am the complainant was contacted by police. The complainant returned home and confirmed that his laundry door had been opened, his workshop door opened and firearms safe unlocked and opened. Three rifles and ammunition, a firearm scope, a camera and a multi-tool had been removed. This property had a value of approximately \$1,750.

The ammunition was located spread on the ground outside the external doorway to the workshop. The firearms were located wrapped in a towel from the house on the lawn in the yard. It seems the defendant and his companions were interrupted as they were leaving the premises.

Other items stolen from the complainant's house, included a fob watch, foreign currency, coins and jeweller, and had a total value of approximately \$4,250.

It is the Crown's case that the defendant, J and L were part of a joint criminal enterprise/acting in concert with one another and are liable for the acts of each other by their participation in such an enterprise.

The defendant is 24 years old. He had a dysfunctional childhood and was both exposed to and subjected to physical violence by his father and stepfathers. He was further subjected to sexual abuse by his mother's friend. As a result of one incident of violence, after his stepfather attempted to drown him in a bathtub, he was referred to Clare House at 4 years of age. He was seen for counselling for five years.

His teenage years were marked with anxiety, hyperactivity and impulsivity, and medical specialists diagnosed persisting symptoms of ADHD and poor behavioural regulation. He used cannabis, alcohol and later, methylamphetamine in an attempt to cope with his symptoms.

His long offending history, including for dishonesty and armed robbery was almost always comprised by offences committed whilst under the influence of substances. His involvement in offending is also markedly committed whilst in the company of others. I am informed that past youth justice reports and pre-sentence reports have noted a tendency for him to be a "follower" and to be swayed by the influence of others. Unfortunately, many periods of detention at Ashley Youth Detention Centre and Risdon Prison, has meant that he has become institutionalised, and he has limited life-skills and his life has been characterised by drug use.

The defendant's mother died some years ago and his father died more recently. He shared a close relationship with his brother, and tragically witnessed him die in a motor vehicle accident in mid-2018.

Since then, the defendant has been subject to significant emotional upheaval and depression. His use of methylamphetamine increased dramatically, to the extent that he appears to have experienced two psychotic episodes, and on one occasion he attempted suicide and was admitted to the Department of Psychiatric Medicine in 2019.

As to the offending, the defendant wore a gold bracelet which belonged to his deceased brother. He did not take it off. It was of significant sentimental value to him and irreplaceable. Shortly before, or on the day of crimes, that bracelet had been taken from his home by a male. His sister reported it stolen, and the defendant confronted the male on the day and demanded it back. However he was advised that it had been pawned, and after a physical altercation, first and foremost in his mind was to obtain money to buy the bracelet back so it would not be lost to him.

He thought of burgling cars but then encountered the other males. He did not enter the house at the time the others did, nor did he remove anything himself from the house. His co-accused were aware that he wished to retrieve his brother's bracelet. While outside, in the front yard, he was handed a ring, a fob watch, keys and gloves. He took those items and was found with them when the police arrived.

He has been remanded in custody on this matter since 16 August 2019.

He plans to move to Wynyard to live with a friend upon his release. Such a move is intended to remove him from negative influences and a drug culture that he has been ensconced in while living in Hobart. His grandfather resides in Wynyard, so he will have some family support. He intends to seek assistance regarding recommendations he has received. He is currently making enquiries regarding the suboxone program, which may assist him to remain free from illicit substances.

Recognising the seriousness of any involvement in the theft of firearms, but taking into account all of the complex circumstances of this case, including the defendant's role and his motivation, and the fact that all of the property was fortunately recovered. And recognising the defendant's late plea of guilty and his desire to address the cause of his offending, he is convicted of the crimes to which he has pleaded guilty, and I impose a single sentence of 18 months' imprisonment backdated to 16 August 2019, with the balance from today suspended on condition that he commit no offence involving dishonesty for a period of 18 months.