

Ms Cantrell, you have pleaded guilty to one count of being an accessory after the fact to murder.

The crime relates to events which took place on 13 and 14 April 2019. At that time, you were in a relationship with Sean Duffy. The relationship had started shortly after Duffy's release from prison in February 2019, although you had known each other for a longer period. Although the relationship was relatively short lived, and you were not living together at the time, you spent a lot of time with Duffy and regularly drove him around in your vehicle. You knew some of his associates. You also knew the man with whom Duffy lived, Jarrod Turner.

During the morning of 13 April, you drove Duffy to a building at which some of his associates resided. This building is known among that circle of people as "the shed". Solely for ease of description during this narrative, I will refer to that building by that name. You were familiar with this address and the people who resided there, but you did not stay there after you dropped Duffy off there. Later that day, Duffy arranged for you to collect him from a prearranged location at about 8 pm. You agreed to this, notwithstanding that you were upset with Duffy because you had expected that he would spend some time with you during the day.

At about 8:15 pm, you met Duffy at the arranged meeting place. He arrived there in a vehicle with two male associates, men who resided at the shed. Duffy was carrying an item which appeared to be wrapped in a piece of clothing. He got into your car and put the item on the floor.

The item was, in fact, a loaded firearm that Mr Duffy had acquired during the day. He was carrying the firearm because he intended to use it to shoot Mr Turner. He had decided to do this as retribution for an allegation that had been made to him during that day by a female youth, that she had been sexually assaulted by Mr Turner. It is accepted that you knew nothing about Duffy's intention, the female's allegation, or that the item he had with him when you collected him was a firearm.

After Duffy got into your car, at his request, you collected Mr Turner, and then drove the two men around to various locations in the nature of a social engagement. Later that night, you drove them to 7 Mile Beach, where they both got out of the car and consumed some alcoholic drinks. You did not leave the vehicle at any time.

On the way back from 7 Mile Beach, on a remote stretch of road near Cambridge, either Duffy or Mr Turner asked you to pull over so that they could urinate. They both got out of the car. Duffy took the firearm from its location on the floor of the front passenger seat and, from close range, shot Mr Turner to the head. He did this as Mr Turner was standing on the side of the road urinating. You were still in the driver's seat of the car when this happened. You heard the shot and saw Mr Turner fall to the ground. You realised what had happened as soon as Duffy got back into the car after closing the rear passenger door, placed the firearm at his feet and told you to go. You drove off as instructed by him. Mr Turner was left lying face down on the side of the road with his trousers undone and his genitalia exposed. The gunshot caused Mr Turner's death. Mr Duffy has since pleaded guilty to his murder, and he was recently sentenced by me to life imprisonment, with a non-parole period of 18 years.

As the vehicle drove away, the deceased's phone, which was in the car, started to ring. Duffy threw it out of the window while the vehicle was moving. In accordance with his instructions, you drove him to a house in Gagebrook, where the female who had made the allegation against Mr Turner lived. During that journey, there was a discussion between you and Duffy concerning the fact that he had inadvertently left the item of clothing in which the firearm had been wrapped, on the side of the road near Mr Turner's body. You pointed out that the clothing was likely to have the DNA of its owner on it.

You waited at the house at Gagebrook while Duffy showered, changed some of his clothing and hid the firearm. You then drove him to another house in Chigwell and remained there while he decided what to do. You then took the car to Duffy's sister's house and concealed it in the backyard of that house. You did this by parking it in a position from which it could not be seen from the road. You remained in the vehicle while Duffy left, and then returned some time later. When he returned, you and he were collected by his associates and taken to the shed.

You remained with Duffy at the shed until that evening. I am told that while you were there, you were effectively detained by Duffy and his associates. The prosecution disputes that you were actually detained. I do not think the resolution of this dispute matters very much to the question of sentence. It is obvious, from what you told police in the interview that I have been shown today, that you wanted to go there, but you may also have been practically prevented from leaving. As I have already said, I do not think that the resolution of that dispute is essential to the assessment of sentence. In any event, after you had been at the shed for some time, you drove Duffy to Fingal, where you and he stayed in the residence of another associate for a period of five days. The purpose of doing this was to hide from police. On two occasions while you were there, you travelled to Launceston with the man with whom you were living. On both occasions, you purchased items for both Duffy and you. It seems on the second occasion you went principally to keep the other man company. You made the trip with that man, but not with Duffy. The items purchased included a mobile telephone, SIM cards, bedding and supplies. You also purchased some hair dye, which you used to change the colour of your hair in an attempt to alter your appearance. You purchased the telephone because your phone and Duffy's phone had been destroyed, presumably by Duffy or his associates, in the immediate aftermath of the shooting. You did not do this, Duffy requested you to give him your phone. It was not given back to you and you were later told that it had been destroyed.

You and Duffy were arrested by police after five days in Fingal, while you were leaving that town by motor vehicle. After your arrest, you participated in two recorded interviews in which you made some disclosures concerning what had taken place. You were charged the following day. A few days later, you participated in two further interviews. Although some aspects of your account changed over the course of the four interviews, and it would seem in the last interview you provided details that had not previously been provided, it is accepted that you told police at the outset about the shooting and its location, identified Duffy as the perpetrator and admitted your own involvement in driving Duffy around, concealing the vehicle and purchasing supplies after the murder. On 22 November 2019, you were indicted on two charges, the charge to which you have now pleaded guilty and a charge of failing to report a killing. You pleaded guilty to the accessory charge on 30 September 2020. I am told that this was as soon as you had been informed that the prosecution would accept this plea in complete discharge of the indictment. On the basis of this history, I accept that since your arrest by police, you have, in substance, and eventually, demonstrated a willingness to co-operate in the administration of justice. This will be taken into account in your favour in determining sentence.

The crime of accessory after the fact to murder is constituted by the provision of assistance to the perpetrator of the murder for the purpose of enabling that person to escape punishment. You commenced the commission of this crime when you drove Mr Duffy away from the scene of the murder in the knowledge that he had shot and probably killed Mr Turner. I accept that your decision to do this was undoubtedly made spontaneously, and in the context of the shock and immediate trauma of seeing him murder Mr Turner. You were not aware of his intention to do so and had been given no indication that something like this would happen. I have no doubt that at that moment in time you were disoriented and undoubtedly very scared and concerned about your own safety.

However, in the hours and days which followed, you stayed with Duffy and provided him with real assistance with respect to his efforts to destroy evidence, cover up what he had done and evade authorities. Some of the assistance was practical, in the sense that you provided him with transport and purchased supplies during the trips to Launceston. You also provided him with less tangible but still important and effective assistance in the form of the support and encouragement he must have derived from your company during this time, and the fact that you were evading the police jointly. You claim that you stayed with Duffy and provided him with this assistance because of fear for your safety. I have no doubt that self-preservation was a significant motivating factor throughout this period. You had just witnessed Duffy murder a man in cold blood, and then receive assistance from his associates. Further, your counsel asserts that your prior relationship with Duffy had involved the exercise by him of both violence towards and control over you, and he continued to exercise this control in the aftermath of the murder. For example, he ensured that either he or someone else was always present with you. He had also made clear to you that your life was in danger. In the immediate aftermath of the murder, Duffy had threatened that he would kill you if you told anyone what had happened, and this continued during the time you spent with him in Fingal. You were well aware that as a direct witness to the killing, you had the power to implicate Duffy and those helping him, and that this would provide a powerful motive for your death. These fears were not alarmist or without foundation. There is a basis on which to conclude that there were real concerns about your safety. Although you did not know this at the time, police have held significant concerns for your safety and had been told that some of Duffy's associates had made plans to harm or even murder you. In conclusion, I have no doubt that self-preservation played a significant role in why you stayed with Duffy and assisted him prior to your arrest by police, and that to a certain extent, you were overwhelmed and confused by the circumstances.

On the other hand, your counsel does not assert that you were compelled to assist Duffy in the sense provided for in section 20 of the *Criminal Code*. It is accepted by you that your conduct in assisting Duffy arose from a combination of factors, only one of which was your fear of him and his associates. Other factors included your own concern about the potential for you to be accused of being criminally complicit in the murder because of your presence at the scene, or your failure to report the murder immediately after it. Further, it is clear to me, and I accept, that you had a general desire to maintain your relationship with Duffy, notwithstanding what you had just seen him, and notwithstanding how he treated you. Much of his conduct and attitude towards you subsequent to the murder was consistent with how he had treated you prior to that crime, and as your counsel concedes, an element of your decision to stay with him involved maintaining the status quo. Thrown into this confused mix of motivation, is the fact that both you and Duffy were taking drugs during the time that you were staying at Fingal, and I am sure that this affected your capacity for sober and rational reflection. At the end of the day, the reality is that you did stay with Duffy and provide him with this assistance. It seems

that this only came to an end because you were arrested by police. There were clearly times when you were not with him, and had access to a telephone. You made no attempt to contact the police at any time during this period. Further, you obviously had the opportunity when you were in Launceston to contact the police, or seek assistance, in some other way, and it is clear that you made no effort to do so, despite Duffy not being present.

Further, to a greater or lesser extent, the combination of factors relevant to your motive for committing the crime is often likely to be present, in any case in which a person decides to subsequently assist a murderer to escape punishment. The commission of the crime of intentional murder is facilitated and made easier if a murderer can expect assistance in evading punishment. Sentences for this crime must therefore be such that they will deter someone in your position from providing that assistance, notwithstanding the existence of misguided loyalty, fear and coercive pressure. On the other hand, I accept that your apprehension for your own welfare and safety was a significant contributing factor to your decision to stay with and assist Duffy, and it provides some mitigation of your moral culpability. It also provides a point of distinction to other cases in which that factor is not as dominant.

Other aspects of your crime which are relevant to its objective seriousness are that the crime in respect of which you are an accessory after the fact was an extremely serious one. The murder was a premeditated and intentional killing. It has caused enormous grief and loss to Mr Turner's family and children, as well, I am sure, to many others. Further, while your case can be distinguished from other cases in which an accessory has assisted in the disposal of the body, your action in driving Mr Duffy away from the scene resulted in Mr Turner being left on the side of the road in the state I have already described. You drove away without checking or knowing whether the gunshot had killed him immediately, and left him possibly injured and bleeding in a remote location, without any real hope of receiving assistance. Further, your assistance to Duffy in the immediate aftermath of these events and over the ensuing five days had real and significant consequences. The assistance which you provided helped him to destroy and/or hide evidence implicating him and possibly others in the murder and helped him to remain at large. This not only had the capacity to affect the investigation, but also for that period, denied Mr Turner's family and the community generally, the knowledge that the perpetrator of this killing had been apprehended.

Having said all that, it is very important to point out that you bear no responsibility for and are not being sentenced for Mr Turner's murder. This was committed by Duffy and you had no prior warning of his intention to do this. Your crime is providing assistance to him afterwards to help him escape punishment.

You are 24 years of age and you were 22 when you committed this crime. You have no prior convictions whatsoever. You had a relatively unremarkable upbringing and completed your education to year 12 level. You have had some employment in the past, but have not been employed for a considerable time. A psychological report discusses your past history of depression and involvement in some abusive relationships, including the relationship with Duffy. There is also a past history of taking illicit drugs. The psychologist is of the opinion that your involvement in the murder and its aftermath have resulted in symptoms consistent with post-traumatic stress disorder and this has had a significant impact on your mental health and day-to-day life. It seems that you have also been subjected to threats of harm or worse arising from your involvement in this case. I note that there has been debate about that today. The genuineness of those threats has been called into question, but I am sure that the atmosphere that arises from those threats being made, both to you and your family, contributes to your

ongoing trauma arising from your involvement in this episode. The threats have had a considerable impact on you and your family, and combined with your psychological condition may also have an impact on your experience of prison and result in it being more difficult than would otherwise be the case.

The need for a sentence which emphasises general deterrence and the objective seriousness of the crime require the imposition of a substantial sentence of imprisonment. I will moderate the head sentence to take account of the mitigating factors I have discussed, your age, prior good character, and your general co-operation in the administration of justice. A specific matter which must be recognised is your indication, through your counsel, that you will give evidence for the prosecution against others who are charged with being complicit in the murder, or as accessories after the fact. Prosecuting counsel concedes that your evidence is likely to be of assistance and will be of importance to the strength of the prosecution case against those persons. I consider it appropriate, for reasons of public policy, to provide for a specific discount to take account of your promised co-operation with the authorities. The discount will take into account that your assistance may be required in respect of more than one trial, and further that the provision of this assistance can reasonably be expected to be associated with considerable risk, real or perceived, to you. I will reduce the sentence I would have otherwise imposed by a nominated amount in order to recognise these matters. I think also that having regard, in particular, to your relative youth and lack of a criminal record, it is appropriate to make provision for your early release on parole.

Jemma Rumley-Cantrell, you are convicted of the crime of being an accessory after the fact to murder. I sentence you to imprisonment for a term of two years and four months, which will commence from 12 November 2020. Were it not for your promise to co-operate with authorities and give evidence against the persons awaiting trial, I would have imposed a sentence of 3 years and six months imprisonment. I order that you not be eligible for parole until you have served one half of the sentence.