

RICKY JOHN CROSSIN v STATE OF TASMANIA
COMMENTS ON PASSING SENTENCE

16 DECEMBER 2020
GEASON J

You have pleaded guilty to armed robbery. The facts are that on 14 April 2010 the complainants Matthew Piggott and Shaun Hevey were working at the Valern Hotel Bottleshop at Albert Road in Moonah. At approximately 9pm, while both men were re-stocking the shelves of the store, Mr Piggott saw you walk into the shop. There were no other customers within the store. Mr Hevey also saw you. You were described as wearing a grey or khaki balaclava with eye holes cut out of it. You were wearing dark shoes and a dark long-sleeve top and gloves. Both men noticed that you were holding something. Mr Piggott was able to see that it was a grey handgun and that it was pointed towards them. You were holding a white plastic bag, described as being like a freezer bag. You looked at both men and said "fill it up" or words to that effect. You spoke softly. You did not shout.

Mr Piggott and Mr Hevey both walked to the back of the counter. You pushed Mr Piggott towards one of the tills. As you did, Mr Piggott pushed the silent alarm. Mr Hevey and Mr Piggott began to put cash from the tills into the bag being held by you. You continued to point the firearm, primarily towards Mr Hevey. You told him to "hurry up and put the money in the bag". You then walked around the counter and began to take money from the till yourself, putting cash into your jacket pockets before running out of the store. You left the firearm on the counter of the bottleshop as well as the bag that Mr Piggott had part-filled with cash.

Mr Hevey watched as you left. You removed the balaclava. You ran through the carpark outside the doors in the direction of Hopkins Street. Mr Hevey called 000. He then realised that the grey handgun that you had left on the store counter was an imitation firearm. Mr Piggott counted the till and determined that you had taken \$1284.05 in cash. Police attended and the imitation firearm and white plastic bag were seized.

Enquiries were made in the surrounding areas on the night of the robbery. CCTV footage was obtained from the Mustard Pot Hotel nearby. A number of persons at the Mustard Pot Hotel were questioned, but all were ruled out as suspects.

On 15 April Police received a call advising that someone had located the jumper you were wearing during the robbery. It was found next door to the Salvation Army carpark in Moonah. Police collected that jumper.

On 19 April, 5 days after the robbery, someone else found a beanie with the eye holes cut out and a glove, behind the Salvation Army building on Hopkins Street. Police also collected those items.

In 2010 a forensic examination was conducted. The results indicated that "Male A" was a contributor to DNA profiles on the plastic firearm, the white plastic bag, the black jumper, the grey beanie and the brown glove, amongst some other items. The DNA results varied in terms of the quality of the match they exhibited. I do not set out all the detail with respect to the DNA profiling, but there was no matching DNA profile to that of "Male A" on the database at the time. It was not until February 2018 when Rita Westbury of the Forensic Science Service Tasmania Laboratory advised Tasmania Police that she had received a DNA match between a mixed major DNA profile from the swab of the inside collar and cuffs of the black jumper. The DNA match was from a person by the name of Kiara Lee Deegan. Ms Westbury analysed the DNA of Ms Deegan and found that there were similarities to the DNA profiles of "Male

A", suggesting that the two people may be related. A Births, Deaths and Marriages request was made relating to Kiara Deegan, and it was determined that you were her father.

There was no DNA database match for you. In June 2018 an order for forensic examination was obtained by police to obtain a DNA sample from you. That was done on 14 April 2018. You were found to be a match to the items matched to "Male A". It is clear that but for the excellent forensic work of Ms Westbury, your offending may well have gone undetected.

You were interviewed on 27 September 2018. Under caution you said a number of things among them these – that Kiara Deegan is your daughter; that you were not familiar with the Valern Hotel; that you had never been there only that you knew where it was; that you were not responsible for the robbery at the Valern Hotel; that you had never seen the jumper before; that your son had a toy pistol very similar to the imitation gun which was shown to you; that the gun was realistic looking; that the beanie and gloves were not familiar to you. You acknowledged that you had had tattoos on the side of your head for three or four years. You also told police that you take a lot of stuff to St Vincent De Paul and considered that that was the only way that you could explain how those items were located where they were. You said you usually drive to those bins and put clothes and odds and ends in them or leave them outside of the bins and that you probably do that once a month. You agreed that at some time you must have handled those items. At the conclusion of the interview you were arrested, charged, processed and bailed.

You have not spent any time in custody in relation to this matter save for the period from your plea of guilty when I remanded you last week.

It is now some years since this offence occurred. Apart from dishonesty offences as far back as 2002, your record comprises predominantly driving type offences. It is put to me by Mr Rainbird that the explanation for your offending was the existence of a drug related debt. I am told that the money you took was used to settle that debt. Relevantly, you have not offended since this event. In that sense, the delay in your apprehension has afforded you an opportunity to prove your rehabilitation. I have regard to that in fixing sentence because it is relevant to specific deterrence.

There is however a particular need to impose a penalty which operates as a general deterrent. Offending of this type is prevalent, particularly in connection to drug use and drug debts. People in jobs like bottleshops, service stations and taxis, people involved in providing a service to the public into the late hours are particularly vulnerable and a sentence that serves to deter this type of offending is important. It is very important, in my view, that the Court imposes a penalty which make it abundantly clear that offences such as this will always attract a harsh penalty.

I have also received victim impact statements from each of the men who were working at the bottleshop on that particular evening. It is clear that your conduct has had a detrimental effect on both of them, and has had practical implications in connection with study and employment since that time.

Generally, I have regard to the submissions made to me on your behalf by Mr Rainbird and I am assisted by them.

It is clear that a sentence of actual imprisonment is called for to punish you and vindicate your victims. In the circumstances I think that this is an appropriate case in which to suspend part of the execution of that sentence in recognition of your otherwise lawful behaviour since and the progress that has been made in relation to drug use.

Mr Crossin, I convict you. You are sentenced to 20 months' imprisonment. I order that the execution of the last 10 months of that sentence be suspended upon condition that you commit no offence punishable by a term of imprisonment for a period of 3 years. I order that your sentence commence on the day you were taken into custody upon your plea of guilty, which was 7 December 2020.

Pursuant to s 68 of the *Sentencing Act*, the State seeks a compensation order in favour of 9/11 Bottleshop in the amount of \$1284.05, and I make that order.

The net effect of the sentence I have just imposed is that you have a sentence of 20 months' imprisonment of which you must serve 10. You will then be released into the community, the remaining 10 months will operate as a suspended sentence and if you commit an offence punishable by a term of imprisonment in the next 3 years you may find that you will have to serve the remaining 10 months.