

Brodi Dylan Howard has pleaded guilty to possession of stolen firearms, receiving stolen property and unlawful trafficking in firearms. Also, I have granted an application to resolve related summary matters of two offences of unlicensed driving and two offences of conveying a firearm contrary to prescribed safety requirements in breach of reg 18 of the *Firearms Regulations* 2016.

During 11 and 12 January 2020, a house at Boat Harbour was broken into on two occasions. Among the items stolen were three firearms: a Ruger .22 long rifle, a Saco .22 250 rifle and a Sportco single barrel shotgun as well as approximately 15 boxes of ammunition, and tools involving a grinder, metal toolbox, electric polisher and cv shaft. The tools and ammunition are valued at approximately \$875.

It is not suggested that the defendant, Mr Howard, was involved in the burglary of the property and the theft of these items. Tamara Reeve was one of the people responsible. At the time of the burglary, she was living with the defendant at Boat Harbour, which is approximately 600m from the burgled premises.

The defendant received the stolen property immediately after it was stolen and on both occasions helped others move the property from the vehicle to inside his house and shed. Then, over the course of two nights, he transported the firearms knowing they were stolen and with knowledge they would be sold indiscriminately and would find their way into the general community. In the early hours of 11 January the defendant and another person drove from Boat Harbour to a property at Acton in Burnie, arriving at about 4 in the morning. This was the residence of Zoe Whiley, who was known to the defendant as someone who was dealing in drugs at the time. The defendant and the other person transported two stolen firearms, the .22 Ruger rifle and Sportco single barrel shotgun, to Ms Whiley at Acton to see if she could sell them. She inspected the firearms in the boot and then the defendant and the other person took the two firearms into her house and left the property. Later that morning, Ms Whiley left her property taking the firearms with her to a prospective purchaser. The person she sold the firearms to was a person with a long criminal history, including violent offending.

Then on the afternoon of 12 January at approximately 4pm, the defendant Mr Howard made a second journey with the same person to the Acton property with a third firearm, the Saco .22 250 rifle. The firearm was transported on the back seat of the vehicle wrapped in black material. Once at the Acton address, they took it into the house. Later that same day on 12 January, police attended with a search warrant and found the Saco .22 250 rifle in the boot of Ms Whiley's vehicle.

The .22 Ruger rifle and Sportco single barrel shotgun were found in the car of the purchaser of the firearms on 3 February 2020. That car had been intercepted following a reckless driving and evade police incident. The shotgun was loaded and the driver had shotgun ammunition in his pocket. He did not have a firearms licence.

In relation to the tools and toolbox, on 15 January, police executed a search warrant at the home of Tamara Reeve and the defendant. Police found the stolen toolbox inside a car at the property. The defendant was present and told the police that the toolbox and tools belonged to him.

The defendant's conduct in transporting the stolen firearms from Boat Harbour to Acton has given rise to two summary offences of conveying a firearm contrary to the prescribed safety requirements by transporting two firearms in the boot of the vehicle on one occasion and one firearm on the back seat on the other. The defendant was unlicensed as a driver at the time.

Mr Howard is 28 years of age. He has prior convictions for summary drug offences, and other summary matters such as disorderly conduct. He also has prior convictions for driving offences including driving without a licence, driving while his licence was suspended, drive whilst disqualified and driving with an illicit drug in his blood. He has no prior convictions for firearms offences. He has been sentenced to non-custodial sanctions for his prior offending. He has been remanded in custody on the current Supreme Court matters since 9 September this year and some of that period of time in custody was also attributable to outstanding summary offences.

Presently, he has a significant number of offences involving dishonesty, driving offences and breaches of bail and summary drug offences being resolved in the Magistrates Court. He has pleaded guilty to these matters and has undergone an assessment for a drug treatment order and is considered suitable, subject to the outcome of these matters.

The defendant was educated at Burnie High School until year 10. He has an industrious history and has demonstrated a good work ethic. He worked on an abalone farm in Bicheno when he was 17 years of age, and later, in the Burnie area carried out seasonal work and work as a builders labourer.

His life took a downturn about two years ago and has been spiralling downwards since. He experienced the break-up of a long term relationship, and his brother was imprisoned. His brother had been the carer for his mother who was very unwell and the defendant took on this responsibility. This was a very difficult time for him. Mr Howard began using methamphetamine on a regular basis and this developed into an addiction.

He has anxiety and depression and had been consulting his general practitioner regarding that condition and had been prescribed medication prior to his incarceration.

As mentioned, he had no involvement in the theft of the firearms. He became aware of the stolen goods when they were brought to his house and he wanted to offload them as quickly as possible. He had connections with some of the offenders and Ms Whiley was known to him as a result of his heavy drug use.

I note that he received no financial benefit from his involvement in receiving and transporting the firearms.

He has pleaded guilty, although not an early stage. However, there is utilitarian benefit in his guilty pleas. He has facilitated justice at a time when trials are significantly delayed as a result of the impact of the pandemic.

Mr Howard has taken some steps to address his drug problem. Recently, before he was remanded in custody, he had started seeing a drug and alcohol counsellor in Burnie and had made some enquiries about an inpatient drug rehabilitation program. He is motivated to engage with drug treatment and that can be seen from the assessment report prepared for the Magistrates Court.

I have the benefit of a pre-sentence report. Mr Howard has expressed remorse for his offending, stating he has made the "biggest mistake of his life" and describing his current remand period as a "big wake up call". He is experiencing the health benefits of being abstinent from drugs and has said that he fully intends to engage with interventions to continue his abstinence. He is motivated to turn his life around and disconnect with criminal associates and make the most of opportunities that he has to be with positive and supportive people. He wants to spend time with his mother who is ill with emphysema.

The defendant is considered suitable for community service and supervision.

Before I proceed to impose sentence I note that there are others who have been charged with related crimes arising from this theft. They are not in the same position for various reasons including that they were charged with different offences or their roles in the enterprise were not comparable. I have taken the sentences into account in a broad way to ensure that differences in penalty justly reflect the differences in their offending, and their individual circumstances.

Mr Howard, I am sure I do not need to tell you that receiving stolen firearms and trafficking in firearms are serious crimes. There is a strong link between stolen firearms and crimes involving violence and dishonesty. Stolen firearms almost inevitably end up in the hands of criminals as they did here with respect to two of the firearms. These firearms could easily have been the instrument of terrible harm including lethal outcomes. Your conduct showed a selfish disregard for those potential consequences. You ought to be ashamed and I note you are remorseful.

There are various considerations that need to be balanced in fixing the sentence I impose upon you. A deterrent sentence is needed, it is necessary to deter others who may find themselves in a similar situation. A gaol sentence is required in order to achieve that purpose. On the other hand Mr Howard, you are remorseful, you have prospects of rehabilitation you are motivated to address your history of drug abuse, and to completely disconnect from your past criminal conduct. And I can also see that you were a reluctant offender who failed to stop and think of others, rather than an offender who planned to, or set out to, cause harm indiscriminately for your own benefit. The sentence I impose today will give you the opportunity to reform **but** it will also have significant consequences if you do not take advantage of the opportunity that I am going to extend to you.

For the crimes on the indictment, possession of firearms, receiving stolen property and trafficking in firearms, I record convictions. I impose ten months' imprisonment which is backdated to 9 September 2020, seven months of which is suspended for two years and six months. It is a condition of that sentence that while it is in force you do not commit another offence punishable by imprisonment. Further, you must perform 98 hours of community service within the period of two years and six months. Further, you are subject to the supervision of a probation officer for two years and six months. The details of the conditions upon which part of the sentence of imprisonment is suspended are as follows.

I impose the core conditions of a community correction order to be in place for two years and 6 months, from the date of your release. These conditions will include that you must not commit an offence punishable by imprisonment; you must report and comply with the reasonable and lawful directions of a probation officer, you must not leave Tasmania without permission and you must notify of any change of address. I impose special conditions to be in place for the

operational period of the order: you must submit to the supervision of a probation officer as required by the probation officer; you must perform 98 hours community service; you must undergo assessment and treatment for alcohol dependency as directed by a probation officer; you must undergo assessment and treatment for drug dependency as directed by your probation officer; you must submit to testing for drug use as directed by a probation officer, you must attend, participate in, and complete drug rehabilitation programs including an inpatient program if so directed; you must attend and complete the EQUIPS Addiction program if directed by a probation officer and you must attend educational and other programs as directed by your probation officer.

If you breach any condition you may be brought back to this Court and re-sentenced.

I add that it is my intention that that this sentencing outcome that I have imposed today should be compatible with a drug treatment order if the sentencing magistrate were to consider that to be an appropriate outcome for those outstanding summary offences.

That leaves the summary offences. On those matters of driving unlicensed I record convictions. On the two offences of transporting firearms I record convictions noting it is conduct that falls, to a large extent, within the trafficking and possession of firearms counts.