

Mr Mitchell, you have pleaded guilty to one count of wounding.

You committed the crime in the early evening of 17 December 2020. The victim is an 18-year-old man. You knew him because you and he had attended school together. You were at your home at Georgetown Road, Newnham with some associates, when the complainant and two other males arrived outside in a car. You saw the complainant enter the house adjacent to yours. I will proceed on the basis that his arrival was unexpected, and your subsequent reaction opportunistic. Although you have not provided any explanation for what you did next, comments made by the complainant to police after these events suggest that some bad blood had developed between the two of you in the preceding weeks. In any event, it is apparent, and I infer, that you spontaneously decided to seize the opportunity to ambush this man and attack him. You hid behind a fence at the end of your driveway and waited for him to leave your neighbour's house. It is apparent that you were armed with a knife, and covered your face with a mask. When the complainant left the house and walked towards his car, you ran from behind the fence, chased him onto the road and stabbed him twice in the back with the knife. You then ran up to the complainant's car, in which the complainant's companions were seated, attempted to open the car doors and stabbed the rear passenger window. A number of your associates also ran up to the car, kicked it and tried to open its doors. The complainant and his friends then drove away. CCTV footage shows you running back and forward across the road a number of times and then running down past an IGA store, which is proximate to the location of these events, and on the opposite side of the road. You were still wearing the face covering when you did this.

This entire episode took place on a busy public road, and was witnessed by several members of the public. A number of cars drove past while you were stabbing the complainant. Your actions were seen by patrons in and outside the IGA store, and probably by others, including passing motorists and local residents. In fact, police were alerted to these events by a telephone call from a member of the public.

The complainant suffered two wounds to his right shoulder blade as a result of being stabbed by you. One was approximately 2 cm wide and 4 cm deep, and the other 2 cm wide and 3 cm deep. He was taken to hospital and treated with antibiotics and analgesia, but he self-discharged from the hospital against medical advice. He has not provided a victim impact statement.

This was a serious crime, with a number of aggravating factors. As already noted, although I accept that you acted opportunistically in the sense that you did not expect the complainant to arrive, your actions after you saw him were deliberate and premeditated. There is nothing to suggest that the complainant did anything to provoke you. On the contrary, his only immediate response was to attempt to escape from you. His wounds were significant, although there is no evidence that they have caused any permanent or ongoing injury. However, stabbing him in the back with the knife was extremely dangerous and could easily have had far worse consequences.

I am also very concerned about the public nature of this crime. As I have already noted, you attacked this man with a knife on a public street in full view of numerous members of the public. It would have been a distressing, traumatic and frightening experience for anyone who was watching, which may well have included children, although I have not been given any

specific information about that. The fact that you were in company with others and the sustained nature of the attack during which the wounding was committed, compounds the sense of violence and threat that law abiding citizens are likely to have experienced as a result of witnessing these events. Criminal conduct such as this disturbs the peace and harmony which the community is entitled to expect in a residential area. Your conduct deserves denunciation, and general deterrence is an important sentencing consideration.

You were 18 years of age when you committed this crime. You have a shocking prior record for crimes of violence, all of which have been committed as a youth. A repeated feature of your criminal behaviour is the violent use of a knife. The last sentence was imposed on 16 August 2019 by me, for the crime of aggravated armed robbery. In my sentencing comments, I summarised your earlier offending as follows:

*"Your serious offending commenced when you were 14 years of age. On 6 July 2017, you were sentenced to a partially suspended detention order and probation for an attempted aggravated robbery and other offences. On 4 September 2017, you were sentenced by me for a serious armed robbery which related to you using a large knife to threaten a service station attendant, so that you could rob him. I dealt with you leniently on that occasion, imposing a wholly suspended detention order and community service. Two months later, you committed an extremely serious aggravated armed robbery which involved a home invasion and again used a weapon, a machete this time, to threaten the homeowner for the purpose of stealing from him. You were sentenced by Pearce J on 24 April for this crime. His Honour imposed a detention order which was partially suspended. [Again, I consider that you were dealt with very leniently on that occasion.] It seems that on the day you were sentenced, you committed the crime of wounding, and you subsequently received a further sentence for this."*

The aggravated armed robbery for which I imposed sentence was committed on 15 February 2019. You threatened the victim with a knife in order to steal his bicycle. This occurred on an opportunistic basis in the early hours of the morning in the Launceston CBD. He was a stranger to you, who was walking to his home and was selected by you at random. When you committed that crime, you were subject to a suspended detention order. That order was activated and a further period of detention was imposed. Your earliest release date was calculated as 18 August 2020. The result was that you were in actual detention between 15 February 2019 and 18 August 2020. You were released on the latter date on a supervised release order of 12 months' duration. You were subject to this order when you committed the crime with which I am dealing today. I had also made a probation order as part of the earlier sentence and you were subject to this order when you committed the crime with which I am dealing today.

I have been provided with and had regard to the pre-sentence report provided to me at the time of the 2019 sentencing. I have also been provided with an updated report from Youth Services. This indicates that despite problems with your behaviour in the early part of your detention, by the time of your release, you had responded well to behavioural management. When released, you continued working at a local business and, in fact, commenced an apprenticeship with that business. However, this promising start did not continue because of difficulties you had dealing with residing by yourself and with full-time work. You also had a motorcycle accident shortly after release, in which you suffered a serious back injury. In September 2020, you returned to live with your parents in Launceston. Although you have had a significant problem with both cannabis and methylamphetamine in the past, the report suggests that you were not using methylamphetamine in 2020 but were using cannabis and alcohol to excess. Your engagement

with probation supervision was poor. On 4 December 2020, you failed to attend an appointment with drug and alcohol services. The crime with which I am dealing today was committed two weeks later. You were arrested on the day you committed this crime and have been held in custody in prison on remand ever since.

I am of the view that, in addition to general deterrence and denunciation, specific deterrence and community protection are important sentencing factors. In relation to the latter, I consider that you have an established propensity to engage in violent criminal conduct with the use of a knife, a propensity which manifested on this occasion. Sometimes, this violence has been directed towards members of the public previously unknown to you. If you continue to act in this way, you pose a clear risk to public safety. My concern in this regard is compounded by the fact that prior sentencing orders seem to have had minimal effect on your offending behaviour. This is starkly demonstrated by your commission of this crime soon after release from detention and while subject to the supervised release and probation orders.

I will take into account your early plea of guilty. I accept this as some indication that you are prepared to take responsibility for your conduct. Further, having regard to your age, your rehabilitation must also remain an important sentencing consideration. However, the weight to be attributed to rehabilitation in this case is limited having regard to the seriousness of the crime, your criminal history and the fact that there is very little evidence that you have made any genuine commitment to reform. Unless and until you are prepared to make such a commitment and follow through on it, there is little point in incorporating specific rehabilitative components in the sentence. Further, as I have said to you in the past, when I have been imposing sentences for the crimes I have been discussing, unless and until you are prepared to make a choice to act in a law abiding way in the community, your future is likely to be extremely unhappy. I will take into account the principle of totality. The consequences of your conduct have resulted in you spending most of your teenage years and early adulthood in custody. I will bear in mind that I must not impose a sentence which, when taken with other sentences already served, is crushing having regard to your age and prospects.

However, it is clear that the only possible sentence for this crime is a significant term of imprisonment. Under s 119 of the *Youth Justice Act*, upon the imposition of such a sentence, the supervised release order to which you are currently subject will be cancelled. By s 120(1), I am required to issue a warrant directing your return to the custody of the Secretary at the detention centre from which you were originally released, presumably so that you can serve out the balance of that detention period. Having regard to the matters already discussed, I am of the opinion that you should serve out the balance of the sentence of detention imposed by me in 2019. Accordingly, I intend to exercise my discretion under s 15(1A) of the *Sentencing Act*, to order that the sentence of imprisonment which I intend to impose commence on the earliest release date in respect of that detention period. For the purpose of assessing the effect of this on totality, I note that the combined effect of s 120(3) and (4) of the *Youth Justice Act*, is that the period between your release from detention under the supervised release order and the date of commission of this crime is counted as time served in custody under the said detention orders, but the period that you have been held on remand since the commission of this crime is not. Accordingly, I need to take that period into account when assessing the length of the sentence of imprisonment. Because of the cumulative operation of this sentence, this cannot be achieved by backdating its commencement. Accordingly, I will adjust the length of the head sentence to take this factor into account.

Finally, an application has been made for orders in respect of the contravention of the probation order. It is the opinion of the author of the Youth Services report that there is really no point to that order now. I agree, and I intend to revoke the order.

The orders I make are as follows:

- 1        You are convicted of the crime to which you have pleaded guilty.
- 2        You are sentenced to imprisonment for a term of two years and nine months. But for the time that you have been held on remand, the length of the sentence would have been three years. I order that this sentence commence on the earliest release date in respect of the detention orders imposed by me on 16 August 2019. As already noted, the effect of the imposition of this sentence of imprisonment is the cancellation of the existing supervised release order which relates to that detention order. In accordance with s 120(1) of the *Youth Justice Act*, I order that a warrant issue directing that you be returned to the custody of the Secretary at the detention centre from which you were released under the order.
- 3        Having regard to your age and the question of totality, and despite your repudiation of rehabilitative options in the past, I think it is appropriate to provide for your early release on parole. By doing so, the Parole Board will have the opportunity to respond to any meaningful commitment to rehabilitation shown by you while in custody. Accordingly, I order that in respect of the sentence of imprisonment I have imposed today, you not be eligible for parole until you have served one half of that sentence.
- 4        Finally, the probation order made by me on 16 August 2019 is revoked.