

STATE OF TASMANIA v HAYDEN KINGSLEY BLACK
COMMENTS ON PASSING SENTENCE

2 JUNE 2021
PEARCE J

Hayden Black, you plead guilty to aggravated burglary and aggravated armed robbery. At 10 am on 22 February 2020 you, with three other young men, travelled by taxi to the home on Hobart's eastern shore in which Trent Ford lived alone. You went there intending to steal money or cannabis or both. Mr Ford woke to answer a knock at the door and, when he did so, you burst through the door and punched him. As he was falling, you rode him to the ground and punched his face three or four more times, asking after each punch where his money was. You then kicked him about five times whilst he was on the floor. While two men ransacked the downstairs area of the home for cash and cannabis, you and the other man dragged Mr Ford upstairs to his bedroom. Your associate produced a 10 centimetre knife, demanded money and, despite being told by Mr Ford that all the money he had was in his wallet, the man threatened to stab him if you did not get what you wanted. Becoming increasingly frustrated about not being able to find money, you kned Mr Ford in the forehead three times. Your associate took Mr Ford's phone and forced him to disclose its PIN. Before leaving, you demanded that Mr Ford hand over the necklace he was wearing with two rings attached. Despite Mr Ford saying that the rings belonged to his parents, you ripped it from his neck, punched Mr Ford again to the face and told him not to tell anyone, or call the police, or you and the others would come back and kill him.

You and the others left with the wallet which contained about \$350, two credit cards, a debit card and a driver licence. Mr Ford's passport, a mobile phone and bags of cannabis were also stolen. He walked to a friend's house from where the police and an ambulance were called. Mr Ford had suffered a broken nose, multiple abrasions to his forehead, bruising to his scalp, mild bruising to the right side of his neck, a swollen ear, tenderness to his ribs and bleeding into the membrane which covers his left eye.

The police quickly discovered your involvement and you were arrested on 23 February 2020. You admitted much of what you had done although you said you were only person there, presumably to protect the others.

You were 19 at the time of this crime. You were homeless, and heavily using illicit drugs, principally ecstasy. You went to Mr Ford's home because, having been using alcohol and drugs, you had run out of money for more drugs and you thought he might have some. You did all of this without much planning. You went there in a taxi and did not think there was much chance he would be home. Of course, when he was at home, you viciously assaulted him without hesitating. You did not have the knife. You did not know whether the knife was taken to the house or obtained from there, but once it was produced you continued with the robbery. As a result you are criminally responsible for it.

You are now 21. As a child your family life was unstable and you were subject to neglect. You completed Grade 10 but since leaving school you have not had a job. According to your record, you did not get into any serious trouble until 2019. That seems to coincide with the commencement of your heavy drug use and a period of homelessness. In 2019 a magistrate made a community correction order requiring that you perform community service for two counts of motor vehicle stealing and a long series of bail offences. That community service order was breached when, on 25 January 2020, you attacked a man he did not know by repeatedly punching, kicking and stomping on his head. It was a crime involving particularly serious violence for which you were sentenced in November 2020 to imprisonment for two

years and nine months backdated to 24 February 2020. Twelve months of that term was suspended. It is not a prior conviction for sentencing purposes and there is no breach of that suspended sentence. However it is relevant because it was committed a month before the crimes for which I am about to sentence you, and the total effect of the sentences you will face is to be taken into account. Your latest release date for that sentence is 23 November 2021. You would have been eligible to apply for parole on 23 February 2021 but because of this matter you have not applied and remained in custody. I see no reason you would not have been granted parole so the sentence I impose will commence then.

You are still a young man, but the mitigation which flows from that fact is much reduced for violent crimes of this seriousness. The plea of guilty is in your favour but it was not an early plea. Your counsel indicated that you have found prison a sobering experience. You have become ashamed and sorry for what you did even though you showed no remorse at the time. You have decided that you want to stay out of trouble and focus on your rehabilitation, and try to be reliable and hardworking in prison. You have been appointed as a wardensman which indicates a level of trust of the Corrections staff. Taking into account your age and your claimed wish to reform I sought a pre-sentence report. Part of the reason for the report was so I could consider including community service as part of a sentencing order. However community service is not recommended because of your past failure to comply. The other area of concern raised by the report is that you saw fit to withdraw from the EQUIPS Addiction Program while in prison.

These were serious crimes. In company with three others, you forced your way into Mr Ford's home, and used significant violence to inflict serious injury. It was a terrifying experience for him which, as indicated by his victim impact statement, has had a lasting psychological effect. You were the person primarily responsible for most of the direct violence.

As I have previously suggested, I must consider the total effect of the sentence I impose when combined with the sentence imposed on you in November 2020. Both crimes were committed during the same period in your life, although they each involved considerable separate criminality. Although imprisonment is inevitable for crimes of this seriousness, your relative youth means that the possibility of your rehabilitation assumes greater than usual significance. You have already been in prison since February 2020. For those reasons I will also suspend part of the sentence I impose, but on conditions which require you to submit to supervision for an extended period following your release. The aim is that the suspended sentence, when combined with the suspended sentence you already face, will stop you from committing further offences and be an effective incentive for you get your life into order. I will also permit parole which, you will understand, may be revoked if you re-offend following your release.

Hayden Black, you are convicted on both counts on the indictment. I impose one sentence. You are sentenced to imprisonment for three years from 23 February 2021. I suspend one year of that term for two years from your release from custody. I order that you not be eligible for parole until you have served half of the two year operative period of that term. It is a condition of the order suspending part of the sentence that while it is in force you do not commit any offence punishable by imprisonment. If you breach that condition then a court must order that you serve that suspended term unless it is unjust. I impose a further condition on that order that, during the period the order is in force, you are subject to the supervision of a probation officer. You will be required to report to a probation officer at the office of Community Corrections at 114 Bathurst Street in Hobart on or before 5pm on the day following your release. You must, during the two year operational period of the order, report to a probation

officer as required by the probation officer and comply with the reasonable and lawful directions of a probation officer or a supervisor. You must not, during the operational period of the order, leave, or remain outside, Tasmania without the permission of a probation officer. You must, during the operational period of the order, give notice to a probation officer of any change of address or employment before, or within 2 working days after, the change. I impose special conditions that you must, during the operational period of the order, submit to the supervision of a probation officer as required by the probation officer, attend educational and other programs, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer and attend and complete the EQUIPS addition program as directed by a Community Corrections officer. If you breach any of those conditions you may be brought back to court and re-sentenced.