

STATE OF TASMANIA v BRADLEY KENNETH BROWN
COMMENTS ON PASSING SENTENCE

4 JUNE 2021
BRETT J

Mr Brown, you have pleaded guilty to the crimes of perverting justice and possessing a stolen firearm. You have also pleaded guilty to the summary offences of possessing the same firearm without a licence and while the firearm was unregistered.

Each offence arises from events which occurred at your home on 23 September 2019. You were living there with your then partner, and a male friend was staying over. Early in the morning, a man you knew forced his way into your residence and threatened your friend and then you and your partner, with a firearm. He was demanding drugs. It was a replica firearm but you did not know that at the time. I infer that you believed that the firearm was probably loaded. In order to defend yourself and the others from this armed man, you retrieved a stolen shotgun, which you kept loaded, from where you had hidden it and confronted the man with it. He pointed the pistol in your direction and you fired the shotgun once, causing injury to him. You then took possession of his firearm, took him outside the house, called an ambulance and administered first-aid while waiting for the ambulance. I should make the point that he was injured but, it seems, not seriously.

The crime of possessing a stolen firearm related to the shotgun. It had been stolen during a burglary in 2016. There is no suggestion that you had stolen it, but you were well aware that it was likely to be stolen when you acquired it. According to your counsel, you kept it loaded and hidden at your house, for purpose of self-defence. I have not been given any details about the nature of the threat, but given what transpired on the 23 September, it is not difficult to imagine a circumstance of that type was of concern to you. Whatever your concern was, your actions were misguided. Further, needless to say, the illegal possession of a stolen firearm is regarded as a matter of great concern by the community and this is reflected by the legislative decision to make this offence an indictable crime. The events which transpired at your house are a good example of why the community is concerned about, and not prepared to tolerate, the theft and unlawful possession of firearms. Although you are not criminally liable for your use of the firearm on that day, these events could easily have turned out with consequences far worse than actually occurred.

The perverting justice offence relates to what you did after you shot this man. You carried the man outside your house, removed and hid the firearms, and agreed with your friend and your partner that you would all tell the police a false story about what transpired. You did this because you realised that you may be charged with offences arising from your possession and use of the gun and the events in the house, and you wanted to avoid this happening. As it turns out, you did initially give a false story to the police and you did hide the firearms some distance away from your house. However, when you were re-interviewed three days later, you told the police the truth and helped them locate the firearms.

You are 27 years of age. Your criminal history extends back to 2013, but largely consists of traffic, bail and street offences and some minor offences of dishonesty. There are also some minor drug offences. You have been convicted of selling drugs on two occasions, once before and once after the events with which I am dealing. I am told that you have had some substance abuse issues, and you are now moving away from the use of illicit drugs. You are currently working and have good family support. There would seem to be some evidence that you are, at least, trying to move your life in a positive direction.

As I already indicated, these were serious crimes. I think the possession of the stolen firearm is most serious, but all of the offences require a sentence that emphasises general deterrence. However, I accept that the perverting justice arose from panic and that you did rectify the situation quickly. I also accept that you are remorseful and have some insight into the seriousness of this conduct. I note that you entered pleas of guilty as soon as the prosecution had decided not to proceed with charges arising from your use of the weapon. In the circumstances, I think the appropriate penalty is a period of imprisonment, but I will give you the opportunity to avoid serving it. Accordingly, my intention is to wholly suspend the sentence but make the suspension conditional upon probation supervision and the performance of community service. Provided you comply with the conditions of suspension, you will not have to serve this sentence. But if you commit an imprisonable offence, or if you do not comply with the other conditions of suspension, then it is highly probable that you will be required to serve the sentence. So, my advice to you is to take care and continue to lead your life in a positive direction.

The orders I make are as follows:

- 1 You are convicted of the crimes and offences to which you have pleaded guilty;
- 2 You are sentenced to a global term of 9 months' imprisonment. The whole of the sentence will be suspended for a period of 24 months on the following conditions:
 - (a) that you are not to commit another offence punishable by imprisonment during that period.
 - (b) that you will perform community service for a period of 98 hours. The Court notes that the sections referred to in s 24(5A) of the Sentencing Act apply to this condition. For the purpose of those provisions:
 - (i) you must report to a probation officer at the office of community corrections in Hobart within 3 clear days of today; and
 - (ii) the operational period of the order is 24 months.
 - (c) You will be subject to the supervision of a probation officer. You must comply with this condition for a period of 6 months from today. The Court notes that the conditions referred to in s 24(5B) of the *Sentencing Act* apply to this condition. These include that you must report to a probation officer within 3 clear days of today. In addition to the core conditions, the order shall also include the follows special conditions:
 - (i) you must, during the operational period of the order,
 - (ii) attend educational and other programs as directed by the Court or a probation officer;
 - (iii) submit to the supervision of a probation officer as required by the probation officer;

- (iv) undergo assessment and treatment for drug dependency as directed by a probation officer;
- (v) submit to testing for drug use as directed by a probation officer;
- (vi) submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.