

IMN was found guilty by a jury of armed robbery. The facts for sentence follow from the verdict. Just before 4 pm on Tuesday 10 November 2020 he walked into a small takeaway food business on the West Tamar Highway in Riverside. He was wearing a hooded jacket pulled over a peaked baseball style cap and a dark face mask. He approached the counter, produced a knife and demanded that the female shop attendant give him the money from the till. She was aged 59 and was the only person there. He became impatient and shouted and swore at her to hurry up. She produced about \$250 in notes which he took from her, put in his pocket and walked out. She saw him leave on the bicycle he had ridden there.

The whole incident was caught on CCTV. The only issue at trial was whether the defendant was the robber.

When the crime was committed the defendant was 17. He is now an adult. Youth Justice pre-sentence reports, taken with his record, make clear that he is a person with complex needs and who currently presents a high risk. He grew up in the primary care of his mother. He has no long term relationship with his father who had a history of mental illness. There was a period when he was physically abused and traumatised by his father. At an early age the defendant began to display challenging behaviours, impulsivity, attention seeking and aggression. He began to use illicit substances at aged 12 or 13. He long ago disengaged from education in the community although he receives assistance from the school at Ashley. He is diagnosed with schizophrenia and has a very low IQ consistent with intellectual disability. In January 2019 he was admitted to hospital as a result of a psychotic episode, but his condition has since been controlled with some success by injections of anti-psychotic medication. When not in custody he lived with his mother, although she had some difficulty managing him. Many people and services, including his mother, the Youth Justice Division, NDIS, the child and adolescent mental health service and the staff at Ashley have been working to assist him. However, he has a very poor recent record for offences of dishonesty and violence and limited insight into the seriousness and impact of his conduct. In 2018 community service and probation was ordered for a series of burglaries of commercial premises. In August 2019 he committed two serious assaults, three counts of stealing and two counts of aggravated burglary. He was not sentenced for those offences until recently. In December 2019 he was sentenced to detention for 12 months from 17 September 2019 for other offences including seven counts of stealing, but more significantly, an attempted armed robbery. That crime is similar to the crime for which he is now to be sentenced. He walked into a fast food chain store, produced a knife to the 16 year old employee behind the counter and demanded she fill a bag with money. When she fled he jumped the counter and attempted to open the till himself until he was struck by a customer with a chair. He was released from custody on 18 March 2020 but committed a number of anti-social and dishonesty offences in May 2020. On 26 June 2020 he was sentenced by a magistrate to detention for five weeks and a further four month term was ordered but wholly suspended. He was released on 2 July 2020. This crime was committed a little over four months later.

It was not until 3 June 2021 that he was sentenced for the 2019 assaults and aggravated burglaries. A magistrate ordered detention for 12 months from 12 November 2020, the day of his arrest following the armed robbery. He has been in detention since then although he was due to be released on 13 May 2021. The sentence I impose should commence then. By committing the armed robbery he breached a condition of the four month suspended detention

order made on 26 June 2020. It is an aggravating factor that the crime was committed while subject to the suspended sentence, but no breach application has been made to me.

The seriousness of armed robbery has been emphasised by this court and by the Court of Criminal Appeal in many cases. That is so because of the potentially devastating effect that it may have on victims. This crime was committed against a person who was working in the type of business which is an easy target, and in which such crimes are commonly committed. As the recording of the 000 call makes abundantly clear she was terrified and traumatised by the robbery. Her victim impact statement and her manner in court make clear that she remains seriously affected by her ordeal.

It has not been suggested that the crime for which he is to be sentenced was committed while he was affected by delusions or perceptual disturbance. A report prepared by a clinical psychologist, Damien Minchan, in 2019 in the course of consideration of offences committed prior to then suggests that although the position was complicated by the defendant's behavioural and substance abuse issues, and that there was no direct causal link between his mental illness and the earlier offending, it nevertheless affected his cognitive resources and his ability to think clearly, to make calm and rational choices and to exercise appropriate judgment. I have no further report but I would infer from all of the circumstances, particularly the subsequent confirmed diagnosis of schizophrenia, that the same factors were at play here. However, even assuming that to be so, there is a strong need for punishment and protection of the public. Detention or imprisonment are the only appropriate orders for a crime of this seriousness.

Having regard to his age, I have decided to order detention under the Youth Justice Act rather than imprisonment. It will be a matter for the authorities to determine where he is held in custody. However detention will enable him to be more readily provided with the high level of support he is currently receiving in relation to his mental health and education. If some progress can be made then the community as a whole will benefit.

The *Youth Justice Act*, s 81, limits the period of detention I may impose to two years. This crime demands that maximum period.

IMN, you are convicted. I make a detention order for two years commencing 13 May 2021. I specify 13 May 2022 as the earliest release date for this sentence, which is the day immediately following the completion of half of the period of detention. If it is not already clear, I specify that this order is made under Part 4 of the *Youth Justice Act* and that the responsible Department in relation to that Act is to be responsible for all or any matters relating to the administration of the order.