

STATE OF TASMANIA v BRADLEY MARK RILEY
COMMENTS ON PASSING SENTENCE

23 JULY 2021
MARTIN AJ

Mr Riley you have pleaded guilty to a number of charges arising out of what used to be called a breaking and entering and stealing on a private property. First, an aggravated burglary committed on 23 January 2021, when you entered a private premises as a trespasser with intent to steal in the premises. Those premises at that time were ordinarily used for the purpose of human habitation, hence your crime of burglary became aggravated burglary. While in those premises you stole a watch, jewellery, a jewellery box, two Lenovo tablets, a mobile phone and a car key of a total value of about \$1,500, and you have pleaded guilty to stealing that property. In addition you stole a Mitsubishi Triton, and you have pleaded guilty to motor vehicle stealing. That vehicle was parked in the driveway. In addition to those offences on the same occasion, you damaged a Holden Commodore in the premises which had led to the offence of injuring property. In respect of the Holden Commodore you have also pleaded guilty to motor vehicle stealing by way of driving or using that Commodore without the consent of the owner.

Those offences occurred on 23 January 2021. In addition you have pleaded guilty to setting fire to the Mitsubishi Triton on 24 January 2021. That is the offence of unlawfully setting fire to property.

The owner of the property and her husband went away for the Australia Day long weekend and left the premises on 22 January 2021. They secured the premises and the Mitsubishi Triton and Commodore were parked in the carport, the Commodore being to the rear of the Triton. You and your co-accused Ms Spotswood, together with another but unidentified female, were seen on CCTV footage approaching the premises on foot. The three of you walked down the driveway and out of view of the cameras.

About two hours later, you were seen walking away from the premises. You had entered the premises through an external window attached to the kitchen. The flyscreen had been removed by bending and cutting it and the window had been left ajar. Your fingerprints were found on the point of entry. While on the premises you stole the items to which I have referred and in the process you had opened drawers and cupboards throughout the house and had strewn property onto the floor and beds. The television had been smashed.

You should understand that you have breached the security of the home and this type of conduct, particularly when it involves damaging the interior of the premises, is very distressing to the occupiers. It is a breach of their privacy and their security even though they are not at home. While at the premises, one of you, and it matters not which because you are engaged in a joint criminal enterprise and you are each responsible for the conduct of the other, smashed the driver's window the Commodore with a hammer.

It appears that using the key to the Triton that you found inside the premises, you reversed the Triton into the Commodore, ramming it into the street. Then you stole the Triton. Exactly where you took it is unknown, but at about 2pm on the following day the Triton was found in bushland completely destroyed by fire. It had been valued at approximately \$35,000.

On 27 January 2021, police arrested you and Ms Spotswood. The identity of the third offender is unknown. During an interview with police you denied attending at the premises and denied being involved in any burglary at that address. You claimed that the person in the footage must just look like you. However, you agreed you were responsible for lighting the fire which

destroyed the Triton. When asked why you lit the car on fire you said that it was for "something to do." You claimed that you came across the car in the bush and could not recall how you had set it on fire. Obviously that was a false claim and I do not believe your suggestion that you could not recall how you had set it on fire.

As I said, the third offender had not been identified. Ms Spotswood is due to appear in the magistrates court on 9 September 2021.

I am told that by reason of a sentence in respect of another matter, in substance you have been in custody on this matter since 22 June 2021, and so your sentence will be backdated to that date.

Mr Riley, like so many offenders you have had an unfortunate upbringing. You are now 22 and your mother left home when you were an adolescent which left you living with your father and you came under, what was described by your counsel as significant criminal and anti-social behaviour. As is so common, you had a disrupted education but it is to your credit that you managed to complete year 10 while you were in detention and you received library and numeracy awards in that process. You are literate and capable, obviously, of holding down a job. You spent time as a plasterer when you were released from custody in 2020. However, the influences to which you were subjected to as a child left you with a drug dependency. You started using cannabis at the age of 13 and developed quite quickly into the use of methylamphetamine which, as is well known, has disastrous effects, including cognitive distortion and this has led you into a life of criminal conduct involving repeated offences of dishonesty, including burglary, driving offences, assault and repeated breaches of court orders that were made in an effort to assist you to rehabilitate. Your counsel has told me that each time you were released from detention or custody you found that your associates and return to the use of drugs led you into further offending.

At the age of 19 you unlawfully set fire to window furnishings inside a unit, but fortunately you realised what a foolish thing it was and you extinguished the fire and threw the curtains outside to prevent the fire from spreading. Before me, on 15 October 2019, you pleaded guilty to that offending and I imposed a sentence of 5 months' imprisonment to commence at an earlier date. Your offending on that occasion was significantly different from your offending on this occasion. At the time I sentenced you I said that you should understand that if you kept going down that path your future lies in imprisonment, which was not to your benefit or the benefit of the community. I told you it was up to you and that no one else could do it for you. Unfortunately, you have continued on that path to the point now where you leave me with no alternative but to send you to goal.

Your record quite frankly is appalling. It started when you were aged 13 and the prosecutor has pointed out that there is something in the order of four aggravated burglaries, one burglary, 17 motor vehicle stealings or attempts to do so, and 41 stealing crimes. They span the period from 1999 to now. Nothing the courts have tried to do has helped in the past, and nothing the courts have done has been able to dissuade you from committing further offending. When you come under the influence of other persons and drugs your life thus far demonstrates graphically the terrible impact that drugs, and in particular methylamphetamine, have.

As I said, you leave me with no alternative, but hopefully as you mature you will be able to find your way out of this dysfunctional life that you have made for yourself. You have demonstrated insight into what causes you to commit these crimes and I am told that upon your

release you intend to relocate to Flinders Island and remove yourself from the damaging influences of associates and family. So far you have used your time in custody usefully, and I hope that you will continue to do so. I will fix a non-parole period in respect of your sentence in the hope that you behave well enough to be released on parole and that during your period on parole steps can be taken to support you and to put you on the right path. This has been a roundabout way of pointing out that deterring you from offending again is an important part of the sentencing process. Similarly, deterring others who are minded to commit crimes like yours is also an important feature of the sentencing. Your relative youth, age 22, and the matters arising from your background must give way to the importance of both general and specific deterrence.

You are convicted of all of the offences. I make a compensation order pursuant to s 68(1) of the *Sentencing Act* in favour of the owner of the premises who is identified in the Crown facts in a sum to be assessed. I take into account in arriving at the sentence your early plea of guilty which is also hopefully a small sign that you have developed some insight into your offending and perhaps a small sign that there is a glimmer of hope for rehabilitation.

Had it not been for your plea of guilty, I would have imposed a sentence of 2 years and 9 months' imprisonment. After allowing for your plea I impose a sentence of 2 years' imprisonment, commencing on 22 June 2021 and I fix a non-parole period of 12 months, that is a period before which you are eligible for release on parole.