

COMMENTS ON PASSING SENTENCE**WOOD J**

Karen Patricia Nancy Keefe has pleaded guilty to one count of dealing in firearms contrary to s 11(1) of the *Firearms Act* 1996.

Sometime prior to 23 June 2016 the defendant gained possession of a 12 gauge Boito sawn-off shotgun. It had been brought to her house by Matthew Ward who was staying at her residence for a brief period. On 23 June she offered it for sale. She had a conversation with an unknown person via Facebook Messenger and offered to sell it for \$850 cash but said the price was negotiable. She sent a photograph of the firearm. She said various things to encourage the person to buy the firearm and reduced the price. Ultimately, the sale did not take place.

In the late hours of 25 June 2016 the defendant was arrested and charged by police for driving whilst disqualified. Realising that she was to remain in custody she advised two police officers that there was a firearm at her residence on a dresser. She was concerned about the presence of the firearm because her mother and her children were in the house.

Police officers happened to intercept Mr Ward a few hours later. They found a 12 gauge Boito single barrel sawn-off shotgun underneath the driver's seat. It was examined by a ballistics expert and found to be in working order. Mr Ward said the car was the defendant's car and he did not know the firearm was under the seat. Mr Ward's knowledge in this respect is not asserted to be relevant.

On 21 February 2017 the defendant was arrested in relation to a charge of breach of bail. Two mobile phones were seized from her and the messages offering the firearm for sale were found. She was remanded in custody on the breach of bail and other unrelated matters. On 11 March 2017 the defendant had a telephone conversation with her mother on the prison Arunta telephone system. She asked her mother to collect her phone from the police as it contained "messages selling guns". I note here that she is only to be sentenced for dealing in one firearm.

On 9 August 2017 Ms Keefe participated in a video interview with police in which she said that the shotgun was at her home for a couple of days, it belonged to Mr Ward and he was trying to selling it. He was using her "Facebook" to post messages as at the time as he did not have any credit on his phone. Later she said she may have posted the messages, but Mr Ward was telling her what to post. She denied offering the gun for sale, but admitted being present with Mr Ward when he did that. In fact, the defendant had sent the messages, not Mr Ward although it was at his instigation. The defendant was charged with trafficking in firearms and remanded in custody on unrelated charges.

She was granted bail on 8 June 2018 after serving a sentence for unrelated matters. That sentence had been backdated to 21 February 2018. The defendant has spent 9 months and 6 days in custody attributable to this matter.

The crime was committed 5 years ago. It has taken a considerable amount of time to resolve. That delay is not due to any fault of the defendant. The resolution of this matter was waiting on the resolution of other charges which had priority and were caught up in appeal proceedings. The Crown wrote to the defendant's counsel to resolve this matter in May 2020. A plea of guilty was entered in the week before the matter was listed for trial. Despite the lateness of the

plea of guilty, it has a utilitarian benefit which warrants mitigation. The defendant has been on bail and subject to a number of conditions for a long time.

The defendant is now 45 years of age and has a significant number of prior convictions for dishonesty and driving offences, but none for firearms related offending. Her most recent offending was in February 2017 for driving offences including drive whilst disqualified which attracted a term of imprisonment, her second term of imprisonment in that year, but she has no convictions since then. This reflects the significant steps the defendant has taken towards her reform in recent times, which I will come to in a moment.

She has had a difficult and traumatic life. During her previous relationships she was subjected to domestic violence. One incident amounted to a very serious crime resulting in ongoing psychological trauma. Another assault resulted in her being hospitalised in November last year.

She has struggled with drug addiction for many years. She has made good progress but relapsed in May of last year, on the anniversary of the very serious crime mentioned.

The defendant has four children, two are now adults and her younger children are seven and five years of age. Child Protection Services have intervened a number of times over the years resulting in various care orders. While subject to those orders the children have been able to live with Ms Keefe's mother. The most recent order arose from the defendant's relapse. That order is due to expire in May 2022. The defendant is working with the authorities and seeing her children on a regular basis.

As mentioned, the defendant has taken significant steps to reform her life. She has had the assistance of an employment agency in the last three years and recently, after concerted efforts on her part to improve her prospects, has secured a permanent part-time position, and also another casual position. She is also engaging with services to equip her with the skills to move forward with her life. In order to address her drug addiction and trauma issues she has recently engaged with the Salvation Army Matrix Program. The program is a 48 week outpatient recovery program, and provides knowledge, skills and strategies crucial to maintaining recovery from substance dependence. In addition to the six hours per week involved in the Matrix sessions Ms Keefe attends regular counselling with a psychologist and counsellor to address her mental health and trauma related symptoms. She is attending a psychoeducational support group for women who have experienced family violence.

Ms Keefe has been working in a volunteer capacity on a regular basis during the past four years, and I have a reference which speaks of her qualities and character such as her capacity for hard work, and eagerness to improve her life and that of her children. Recently, she has developed a relationship that is caring and supportive. Her partner is a parent and he is helping with the care of her children.

The crime of dealing in firearms is of serious concern. It enables firearms to unlawfully circulate in the community and facilitates the commission of serious crime, causing harm to individuals and our community. Often the only appropriate penalty is a sentence of imprisonment. Here, the conduct of dealing was confined to an attempt to sell a single firearm, and fortunately, that attempt was unsuccessful. The defendant co-operated with police and told them that she had the firearm and where they could find it. The firearm was recovered. She has spent a lengthy period of time in custody which would be attributable to this matter if she were

to receive a gaol sentence. In fact, it exceeds the period she would be likely to receive if a prison term were to be imposed.

There is little if any need for personal deterrence, and the defendant is making excellent progress towards her reform. General deterrence is still an important goal, although this is not a case that demands a harsh penalty. I am satisfied that an actual prison term is not required. In this case given the circumstances, the need for general deterrence is met by a community correction order. While it is an onerous order with strict conditions, it reflects the gains Ms Keefe has made in terms of her rehabilitation and encourages her continuing efforts.

I record a conviction and I impose a community correction order for a period of 12 months from tomorrow. The core conditions of that order will be specified in the order you will be given and include that you not commit an offence punishable by imprisonment, that you must report to Community Corrections at 114 Bathurst Street Hobart by 4pm tomorrow, and comply with the directions of a probation officer, you must not leave Tasmania without permission and you must notify of any change of address. I impose a special condition that you must during the 12 month period submit to the supervision of a probation officer as required by the probation officer. If you breach any of the conditions you may be brought back to court and re-sentenced.