

STATE OF TASMANIA v SAMUEL JOHN BURROWS
COMMENTS ON PASSING SENTENCE

18 AUGUST 2021
MARSHALL AJ

Mr Burrows has pleaded guilty to one count of aggravated carjacking, contrary to s 240A(2) of the *Criminal Code*. The particulars of the charge are that at Ulverstone on 1 July 2021 he assaulted the complainant with intent to take her motor vehicle, and at the time of doing so was armed with a knife, being an offensive weapon.

With the consent of Mr Burrows the Court also has before it guilty pleas pursuant to s 385A of the Code for six summary offences. They are:

- attempted motor vehicle stealing;
- aggravated burglary (dwelling);
- stealing;
- destroy property (two charges); and
- drive while not the holder of a driver's licence.

In the early morning on 1 July 2021 in Ulverstone, Mr Burrows gained entry to a Honda vehicle belonging to Mr Wayne Postlewaite. He tried to start the car but was unsuccessful. He went to a nearby residence and stole a knife. That forms the basis of the aggravated burglary (dwelling) charge. He used the knife to attempt to start the vehicle but was unsuccessful. He requested a female in a nearby vehicle to assist him with jumper leads. He was concerned that she suspected he was up to no good and fled the scene. Those facts form the basis of the attempted motor vehicle stealing charge.

Shortly thereafter the complainant arrived in her car just near her work at a childcare centre. It was about 7am and still dark on a winter's morning.

Very soon afterwards the accused approached the driver's side of her vehicle with a hood over his head and the knife he had not long before stolen from a residence, in his hand. He pointed the knife at the complainant and demanded the keys to the car, as well as her phone. She gave him the keys and told him her phone was in the car. He entered the car and drove it away. He was not the holder of a driver's licence at the time. That explains the laying of a charge to that effect. He drove to Turner's Beach, a short distance from Ulverstone, and parked the car behind a caravan so that it was not visible from the road. He found an iPad belonging to the complainant in the car and smashed it. He damaged the front number plate of the car. These facts support the two charges of damaging property. Then he found the complainant's phone and threw it away, leading to the stealing charge.

Mr Burrows told police he held the knife in his hand to scare the complainant and that she was probably in his words, "scared shitless". The complainant, in her victim impact statement, described how shaken she was by the carjacking. It has affected her psychologically and financially. She is now afraid to go outside her home or drive to work. She cannot drive her car any more and has swapped it with her sister to a model not as good as her car is. She is in need of counselling assistance but is still waiting for it due to the lack of adequate provision of mental health services in that region of the State.

The complainant's phone was not covered by insurance and she was required to pay a \$500 excess in relation to the insurance policy on her vehicle. Her iPad does not work any more as a result of the damage caused by Mr Burrows. She has also lost the benefit of covers for both devices which cost her \$120.

Mr Burrows is 24 years old, and was that age at the time of the offending. In the context of the indictable charge of aggravated carjacking, he has no relevant history of prior offending. His previous offending mainly involves illicit drug possession and road traffic offences. Apart from this matter he has no record of offending in the last three years. Given his age, he has reasonable prospects of rehabilitation. His offending, at the time, was affected by an addiction to methylamphetamine. That is no excuse for the offending but assists to explain it. Mr Burrows handed himself in to the police. He co-operated fully with the police and pleaded guilty to all the charges before the Court at the earliest opportunity.

In setting an appropriate sentence on the indictable charge, I take into account specific and general deterrence, denunciation of the appalling conduct and the fact that Mr Burrows intended to and did frighten a vulnerable stranger and caused her psychological harm, as well as financial loss and inconvenience.

I take into account also his fulsome co-operation with the police, his early guilty plea, relative youth and lack of prior offending for crimes of violence. But for those matters the term of imprisonment imposed would have been substantially longer.

I record convictions on all the charges to which he has pleaded guilty. On the non-indictable offences I sentence him to two months' imprisonment on the attempted motor vehicle stealing charge, two months' imprisonment on the aggravated burglary charge, one month's imprisonment on each of the two damage to property charges and the single stealing charge respectively. I order that all such penalties be served concurrently with the sentence on the aggravated carjacking charge. On the drive while not the holder of a licence charge, I disqualify Mr Burrows from obtaining a licence to drive a vehicle for a period of three years. On the aggravated carjacking charge, I sentence Mr Burrows to 16 months' imprisonment with an eight months' non-parole period. The sentence will take effect from 1 July 2021 when Mr Burrows commenced to be held in custody.

I also make compensation orders under s 68(1) of the *Sentencing Act* in favour of the complainant, Sun Corp Insurance (the complainant's motor vehicle insurer) and Wayne Postlewaite (the owner of the car attempted to be stolen) in amounts to be assessed.