

Mr Gasparin, you have pleaded guilty to one count of attempted armed robbery.

The crime was committed on 7 April 2021. At about 3:15 pm, you went to a retail store in Moonah. You entered the store wearing a balaclava over your head and holding a steak knife in your hand. The store was occupied by the female manager and two customers. The knife was visible to them all. As you walked through the store, you made stabbing motions with the knife and then told the manager that you wanted money from the till. She refused and retreated to an office at the rear of the store, locking the door behind her. You then approached the customers, still holding the knife, and asked them if they worked at the store. They said that they did not. You then attempted to enter the room in which the manager had taken refuge, by kicking the door several times in an attempt to break it down and yelling that you wanted money from the till and then you would leave. The manager was concerned that you were going to break the door down and leaned against it in an attempt to stop you. The customers fled the store while you were doing this. After spending some time trying to break down the door of the office, you went behind the counter and began rummaging through drawers looking for the till. Police entered the store soon after. You were still holding the knife but discarded it when directed to do so. You were then arrested and held in custody for one night.

Fortunately, no one suffered any physical injury. However, an impact statement from the manager describes the severe emotional and psychological impact of this experience. This impact is completely understandable. It must have been a terrifying experience for her and for the customers. The manager not only had to endure a man in a balaclava threatening her with a knife, but she must have experienced great terror as you were kicking the door to the room in which she had sought refuge, trying to break it down. Your intention obviously was to get to her, presumably to force her to give you access to the money in the till. She could have had no way of knowing what you were capable of, if you had managed to get into that room.

You are 38 years of age. You have no criminal history for this type of conduct, but you have a relatively lengthy history of traffic offending, which includes a significant number of drink driving offences. The only prior offence involving violence is an assault on a police officer, for which you were convicted and fined in 2013. You are separated, have three young children who spend every second weekend with you, are close to both your parents and would appear to be an industrious person. You have been employed by the same company for the last 20 years. A reference from its owner attests to your good character and industrious nature.

You also have a long-standing problem with alcohol abuse. This would seem to be behind your history of drink-driving. I note that within a five year period between 2004 and 2009, you were convicted of drink-driving and associated offences on four separate occasions. Although there have been no further convictions for that offence since 2009, I am told that you are now facing another charge of drink driving, which relates to a very high reading of blood alcohol. According to the report of the psychiatrist provided to me by your counsel, you commenced using alcohol while at school and this was related to some personality issues, including obsessional thinking and social anxiety. The psychiatrist believes that you suffer from alcohol dependence and confirms the ongoing problematic nature of your personality traits. It seems also that you have struggled to cope with the breakup of your marriage, which occurred about 12 months ago.

Despite these personal difficulties, it is very difficult to understand why you committed this crime. You cannot explain it. It seems that you had been drinking most of the day and I infer, were probably intoxicated when you committed the crime. However, intoxication does not fully account for your conduct. This crime involved a degree of contemplation and preplanning. You say that you had the knife and balaclava at hand, because you use them when you go fishing. Even if this is the case, it is clear that you had thought about which retail establishment you would attack, and chose one that was particularly vulnerable because of the nature of its business. You had contemplated but opted against another establishment which had a similar vulnerability. Further, it is clear from your conduct that when you committed the crime, you were in control of your thinking and actions. Your conduct in the store clearly demonstrates persistence and determination. There is a vague suggestion emanating from comments made by you to police at the time of your arrest, and later to the psychiatrist, that you were having some financial difficulties and wanted money to spend on your children, presumably during an upcoming access visit. However, your counsel has not offered this explanation and I have not been presented with any firm evidence or information concerning this motivation. Whatever your reason for deciding to commit the crime, your moral culpability for this conduct is very high. It is not reduced because of the effects of alcohol or any financial difficulty you may have had at the time. Further, your counsel has not suggested that you were motivated by your children's welfare and clearly you cannot have been thinking about them when you decided to do this. You have now placed yourself in a situation where it is inevitable that you will spend some time in prison and this cannot be in their best interests. Further, I have no doubt that the eldest and probably the older two would be old enough to understand what you did and be extremely disappointed with the example set for them by you. It goes without saying that they, at the very least, deserved much better than this from you.

Your counsel informs me that you are extremely remorseful for your conduct, and I accept this. You pleaded guilty at a very early stage before the Magistrates Court. This has significant utility for the justice system, and I also accept the plea as confirmation of your remorse. The psychiatrist expresses the opinion that the likelihood of reoffending "appears remote". You have stopped drinking and are taking some medication to assist in your abstinence from alcohol. I accept the psychiatrist's opinion, although I am concerned generally that a relapse in respect of your alcohol abuse may predispose you to further offending of some kind. However, having regard to your remorse, lack of prior offending of a similar nature and the effort you are currently making to overcome your alcohol problem, I think the need to emphasise specific deterrence in the sentence is somewhat lessened.

Ultimately, however, it is impossible to overlook the objective seriousness of this crime. There are a number of aggravating factors including the vulnerability of the premises, the presence of members of the public during the commission of the crime, your possession and threatening use of a weapon and wearing a face covering. I regard your pursuit of the manager and your violent attempt to break down the door of the room in which she hid from you, as a particularly concerning and aggravating factor. I note also your persistence in attempting to complete the crime, and that you did not voluntarily desist from its commission but rather were interrupted by the arrival of the police. Crimes such as this are not just about money, they are directed at and have a real and significant impact on people. Because of that consideration and the fact that such crimes are necessarily premeditated, it follows that general deterrence is a particularly important consideration in the assessment of sentence. In my view the only appropriate sentence is a substantial sentence of imprisonment. I will, however, take into account the mitigating factors to which I have referred in the assessment of the head sentence. I will also

give effect to these factors by partially suspending the sentence I intend to impose. A benefit of that course is that there will be an opportunity for ongoing supervision.

Accordingly, the orders I make are as follows:

- 1 You are convicted of the crime to which you have pleaded guilty.
- 2 You are sentenced to a global term of imprisonment of two years and six months, which will be backdated to 15 August 2021. The last 12 months of the sentence will be suspended for a period of 18 months on the following conditions:
 - (a) That you are not to commit another offence punishable by imprisonment during that period.
 - (b) That you will be subject to the supervision of a probation officer. You must comply with this condition for a period of 18 months. That period will commence from when you lawfully cease to be imprisoned under this sentence. 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 the day that you lawfully cease to be imprisoned under the sentence. In addition to the core conditions the order shall also include the following 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 alcohol dependency as directed by a probation officer;
 - (v) submit to testing for alcohol use as directed by a probation officer;
 - (vi) submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.
- 3 You are not eligible for parole until you have served one half of the operative sentence. In practical terms, this means that you will become eligible for parole after serving nine months of that sentence.
- 4 I make an order under the *Crime (Confiscation of Profits) Act 1993*, that the knives used by you in the robbery be forfeited to the State of Tasmania as tainted property. I assess their value at \$5.