

STATE OF TASMANIA v JAYDEN HORNE
COMMENTS ON PASSING SENTENCE

30 AUGUST 2021
GEASON J

On 22 February 2020 the complainant, Mr Ford, who resides alone at Mornington, was woken by his dog barking at someone at his front door.

He went to the door; he could see a figure behind the frosted glass. He opened the door and saw four men standing outside.

One of the other men, Mr Black burst through the door and punched him. He stumbled backwards. Mr Black grabbed him and asked him where his money was before punching him to the face three or four times.

You assisted him Mr Horne, scruffing the complainant and dragging him up the stairs. He was taken to his bedroom where he was pushed to the ground. A knife was produced by one of the other males and it was held to his face. The State accepts that you were not aware that one of the males had possession of a knife. The knife was held towards the complainant.

The two other men who were with you, searched the house for cannabis and cash. They upturned couches and pulled items out of the drawers in the lounge room and kitchen in an effort to find drugs or cash. Some cannabis was located in the kitchen.

You approached the complainant and demanded money from him. He told you that all his money was in the wallet which had already been located. Mr Black kned him to the forehead three times causing him considerable pain. You asked the complainant for his phone which he located for you. He provided the pin under direction from you.

About this time, one of the other males mentioned a police scanner; this caused your group to become agitated and you all decided to leave. As you did, Mr Black saw that the complainant was wearing a necklace and he asked for it. It had two rings attached to it which the complainant pleaded with Mr Black not to take because the rings belonged to his deceased parents. Mr Black laughed at this and ripped it from his neck, causing the complainant pain. He then punched him again to the face and told him not to tell anyone or call police or they would come back and kill him.

The four of you left the house in possession with the complainant's wallet which contained cash, an American Express card, an ANZ credit card, an ANZ debit card and his driver's licence. His passport was also taken, along with a mobile phone and a bag of cannabis.

The complainant was injured and bleeding badly from the incident. He left and walked fifteen minutes to a friend's house and police were called. The complainant suffered a broken nose, multiple abrasions to the forehead, bruising to his scalp, mild bruising to the right side of his neck, a swollen ear, tenderness to his ribs, and a left eye subconjunctival haemorrhage.

As a result of police investigations all four of you were identified. You were located in March 2020. You declined to make any comment about the matter when interviewed. You have been in custody since that date.

Whilst I have noted, the State accepts that you were not aware that one of the men was in possession of a knife, the State's case, which you have accepted by your plea of guilty is that

you all formed a common intention to prosecute an unlawful purpose, namely to commit an aggravated robbery and the production of a weapon was a probable consequence of the prosecution of that unlawful common purpose. Consequently, you are criminally responsible for that crime.

I have a victim impact statement which I have read and considered.

I also note the sentence imposed on Mr Black by Justice Pearce, and observe that I am required to ensure parity in sentencing between you. I note that when sentencing Mr Black, Justice Pearce was required to consider the fact of an earlier sentence imposed upon him. That consideration does not apply to you. The effect of that consideration was that the Court in sentencing Mr Black was required to ameliorate the overall effect of the sentence imposed for this offending so as to avoid a crushing penalty.

I have regard to the fact at the time of the offending you were a youthful offender, and rehabilitation is a primary sentencing consideration. That is not to ignore the gravity of this offending, which I regard as a particularly serious example of this offence. The circumstances of this offence will have been frightening to the complainant, involving four men, two of whom at least, were behaving aggressively and violently towards him. All of you are responsible for inflicting serious injuries upon him. Your offending must be punished, the victim vindicated, and others deterred from behaving in a similar way. You present with a poor record of prior convictions evidencing an attitude of contempt for the law and authority generally. You are not of course to be sentenced a second time for those prior matters, but they are relevant to my assessment of your character.

I acknowledge your plea of guilty, and accept that it has saved the complainant the need to give evidence at trial, and that there is a utilitarian benefit which arises from that. Nevertheless, a term of imprisonment is necessary to properly address the sentencing considerations applicable in this case. In the circumstances, I sentence you to 18 months' imprisonment. I backdate that sentence to the date you were taken into custody. Having regard to time served the question of suspension does not arise- in fact it seems to me that you will be eligible for release relatively soon.