

Mr Wheldon has pleaded guilty to 12 charges – one count of causing grievous bodily harm, two counts of aggravated assault, three counts of aggravated burglary, three counts of stealing, and three counts of unlawfully injuring property. These charges all relate to an escapade in Launceston on the afternoon of Monday, 9 April 2018 when he was under the influence of Ice.

On the afternoon in question, Mr Wheldon was short of money. He went to a Centrelink office and tried to obtain a payment there, but was not successful. He then drove to Invermay to a house that was used for short stay accommodation. He broke open a key safe on the outside of the building, took the keys from inside it, and entered the premises with the intention of stealing. However he left without taking anything other than the keys and an envelope containing a greeting card that was in the key safe. In respect of that house he has pleaded guilty to aggravated burglary, stealing, and unlawfully injuring the key safe.

He went from there to a nearby property, equipped with a hammer, and damaged a fence which separated its driveway from its rear yard by ripping lattice work off the fence. He was confronted by the householder and left. In respect of that property, he has pleaded guilty to unlawfully injuring the fence.

Next, he went to the house next door. It was occupied by a 90-year-old widow. A professional painter was painting the house for her. He was 66 years old. The painter saw Mr Wheldon in the back yard. They had a short conversation. Mr Wheldon said that he was going to jump the fence into the next yard. The painter told him not to do that, turned his back on him, and was struck from behind more than once. He lost consciousness and fell to the ground. On regaining consciousness he found Mr Wheldon searching through his pockets.

The householder had left her keys near the back door. Mr Wheldon stole them, and entered the house through the back door for the purpose of more stealing. He encountered the householder, who was standing in her living room. He struck her with his forearm. She fell unconscious to the floor. He went into her bedroom, and stole a number of buttons from a bedside dresser.

In respect of his visit to this house, Mr Wheldon has pleaded guilty to aggravated assault, aggravated burglary, causing grievous bodily harm, and stealing. His assault on the painter constituted the crime of aggravated assault because Mr Wheldon intended at the time to commit a crime by burgling the house.

The painter was taken to hospital by ambulance and discharged about five hours later, but had to return after two days and be admitted overnight. He suffered from concussion, an injury to his left eye, soreness and swelling to his left cheek, a muscular spasm of the left neck muscles, and elevated blood pressure. He has continuing difficulties with logical thinking and blank spots in his memory. He was unable to drive for a month after the attack. His eye injury resulted in a permanent loss of some of his lower peripheral vision. He has continuing minor problems with his left eye. His neck injury resulted in ongoing pain, a reduced range of movement, and a continuing need for chiropractic treatment. His physical injuries have impaired his ability to work at heights, and have thus impaired his earning capacity as a full-time professional painter. He has also suffered a significant range of psychological symptoms which are ongoing.

The 90-year-old householder regained consciousness, began vomiting blood, and was taken to hospital by ambulance. On arrival she was bleeding from both nostrils and from the side of her right eyeball, having suffered a conjunctival haemorrhage. A CT scan revealed that she had suffered an acute subdural haematoma. That is to say, there was bleeding on the right side of the brain. She had suffered a number of fractures to her facial bones, including the cheekbones and the bones of right eye socket. She had a lot of facial bruising, and cuts inside her mouth. She made a remarkable recovery. She was discharged into the care of her family four days after the attack, and did not require surgery. She needed treatment by a facial surgeon and specialist dentist. She had to get new dentures. She has little or no memory of the attack. She had a problem with double vision. Her memory has deteriorated. She believes her hearing has deteriorated. She has some minor continuing psychological symptoms. Her son had to live with her for about 2½ months after her discharge from hospital. She has continuing problems with her jaw. Her nose is now slightly crooked.

After leaving that lady's home, Mr Wheldon ran through a number of back yards and proceeded to a house in Mann Street, where he smashed a window, kicked in the back door, and entered the house intent on stealing. Up to this point he had not stolen anything of any significant value. The occupant of the house in Mann Street was in her lounge room watching television. She fled and phoned the police. Two officers arrived, entered the house, searched it, and found Mr Wheldon naked, sitting on a toilet. His counsel told me that he had panicked, and had decided to have a shower and wait for the police. As he was being placed under arrest, he punched one of the police officers to the right side of his head. There was considerable fighting before he was overpowered. During that fighting he punched the officer several more times to the head, grabbed his vest, grabbed at the handle of his holstered firearm, and apparently tried to take it from him, without success. OC spray was used. There was a second violent struggle before Mr Wheldon ceased resisting arrest.

Mr Wheldon had taken a bag into that house. Inside Mr Wheldon's clothes and that bag police found a debit card, a driver's licence, a laptop computer, two hard drives, a cigarette tin, and some tobacco, all belonging to the householder. They also found a guitar that Mr Wheldon had removed from another room and placed next to his bag.

In respect of his activities at that house, Mr Wheldon has pleaded guilty to unlawfully injuring the window, aggravated burglary, stealing, and aggravated assault. His assault on the police officer constituted an aggravated assault because he was intent on resisting or preventing his lawful apprehension and detention.

The police officer had suffered a wound to his forearm during the previous week in another incident, and had been wearing a bandage. As a result of the assault by Mr Wheldon, the bandaged wound had started to bleed again, and blood was seeping through the bandage. He was taken to a hospital for an x-ray. He suffered pain, a headache, and swelling to his right hand. He did not make a victim impact statement.

Mr Wheldon was 39 years old on the day in question and is now 40. He has a long record of prior convictions, and has been to prison several times, mostly for dishonesty and driving offences. He also went to prison for armed robbery in 2003 and for arson in 2012. However he does not have any convictions for offences involving violence or the threat of violence, apart from the armed robbery.

He had a difficult childhood. He commenced using cannabis at 14 and amphetamines at 22, and for many years was dependent on alcohol. However there have been settled periods in his life when he has maintained employment. He injured his back and neck in a motorcycle accident in January 2016. That led to hospitalisation, surgery, loss of his employment at a meatworks, and the prescription of various medication for pain relief. By 2018 he considered that his prescription medication was becoming less effective, and resumed using Ice by way of self-medication. His use of the drug quickly escalated, and he started committing crimes of dishonesty. Until his arrest he was receiving an allowance paid by the Motor Accidents Insurance Board and living with his mother. He has three children who live with their mothers – two aged 11 and 9 with one former partner, and one aged 4 with a subsequent partner.

He has been in custody ever since his arrest on 9 April 2018. Last July a magistrate sentenced him to 12 months' imprisonment with effect from 10 April 2018 on 17 charges involving dishonesty and one charge of driving with an illicit drug in his blood. Nearly all of those offences were committed in early 2018, after he resumed using Ice. Because of that sentence, I will backdate the sentence that I impose so that it commences on 10 April 2019, and I will impose a shorter sentence than I would otherwise have imposed because of the "totality principle".

After his arrest, Mr Wheldon eventually co-operated with the police, took part in an interview, made substantial admissions, and expressed remorse. In the 13 months that he has been in custody, Mr Wheldon has taken steps to undertake courses with a view to overcoming his drug addiction.

It counts in Mr Wheldon's favour that he has pleaded guilty, but it is not as simple as that. Last year he pleaded not guilty to the charge of causing grievous bodily harm and the two charges of aggravated assault. A trial on those three charges was commenced. The painter and the 90-year-old lady gave evidence at that trial. For reasons unknown to me, that trial had to be aborted. Subsequently Mr Wheldon entered pleas of guilty to those three charges before me on 29 April. He deserves a sentencing discount because he has saved the State the trouble and expense of a second trial, and has saved two people that he injured the unpleasantness of having to give evidence a second time, but they did have to give evidence last year. It seems to me that the Crown had a very strong case in relation to the three charges in question. In the circumstances, I think a sentencing discount in the order of 5% is appropriate.

Mr Wheldon caused some very serious injuries, particularly the injuries to the elderly woman in her own home, where she had the right to feel safe. He did this in the course of a series of unplanned burglaries of people's houses which, if successful, would probably not have yielded very much money for the purpose of buying drugs. The only appropriate penalty is a long prison sentence. I will impose the shortest possible non-parole period so that the Parole Board has complete flexibility in deciding when it is best for Mr Wheldon to be released. I am taking into account the fact that he did not have the benefit of an order permitting parole in relation to the 12-month sentence imposed by the magistrate with effect from last April.

Shane Allen Wheldon, I convict you and sentence you to five years six months' imprisonment with effect from 10 April 2019. You will not be eligible for parole until you have served two years nine months of this sentence.