

Mr Milligan, you have been found guilty by a jury on two charges – a charge of possessing a prohibited firearm when you were not the holder of a firearms licence of the appropriate category, and a charge of recklessly discharging a firearm. You have also pleaded guilty to two summary offences that I am dealing with under s 385A of the *Criminal Code*. The first is a charge of possessing a silencer. The second is a charge of failing to take all precautions to ensure the safe-keeping of a firearm and ammunition.

These charges arise out of an incident three years ago when you were living in a unit in Somerset. People were in the habit of travelling across your property to get from a main road to a house, or from the house to the main road, and that irritated you, understandably. You tried a number of things to try to stop them from doing this. You had spoken to at least one of the people. You had spoken to the householder from the nearby house and asked her not to drive her car across your property. You had erected signs telling people to keep out, or not to trespass. You had tried phoning the police on a couple of occasions, but they had been too busy to assist you.

At some stage you decided to buy a rifle for your own protection. People in this State are not allowed to get firearms for their own protection. If you apply for a firearms licence on the ground that you need it for your own protection, you will be refused because there is a provisions in the *Firearms Act 1996* that says that that is not a "genuine reason" for having a firearm. So it is illegal to get a firearm for your own protection. But you managed to buy a sawn-off rifle with a muffler attached. Some would call it a silencer. I think you described it as a muffler. It certainly reduces the noise. And so that is how you come to be guilty of the summary charge of possessing a silencer.

You also acquired ammunition for that rifle. Under the *Firearms Act*, there are requirements about the safe storage of firearms and ammunition. You did not do anything about installing a gun safe or anything like that. You kept your rifle under a table, and somewhere you had ammunition for it. So that is how you come to be guilty of the charge of failing to take precautions to ensure that the firearm and ammunition were kept safely.

You did not apply for a licence for this weapon. You would not have been granted one. So you committed the first of the crimes that I am concerned with by possessing this weapon when you were not the holder of a licence of the appropriate category. The weapon in question falls within the definition of "prohibited firearm" in the *Firearms Act* for two reasons. First, it was a self-loading rim-fire rifle. Second, it had that muffler attached. Now, the result of that is that the penalties for possessing it without a licence, and for not having it properly stored, are higher than they otherwise would be. And the offence committed by possessing it is an indictable offence that has to be dealt with as a crime in the Supreme Court, rather than a summary offence that gets dealt with in the Magistrates Court.

Just having an unregistered rifle with a silencer is a very serious offence. In my years as a judge I have even encountered a case where a man was killed by people who wanted to steal unregistered weapons from him. You took a risk having that in your home. If that weapon had fallen into the wrong hands, somebody could have done a lot of harm with it.

Now on the day in question, in November 2018, two teenage boys were walking along the pathway from the main road that I have mentioned to the house that I have mentioned. You got angry with them. One thing led to another. There was an escalation of hostilities. I do not need to go into the details. You really initiated the violence by firing pellets from a gel-blaster at one of the boys who, if left alone, would have walked off into the distance. Nothing more would have occurred. But the boys, and one of their friends, got angrier and started to retaliate. You got angrier and, as counsel have said, there were a number of opportunities on each side for people to de-escalate the hostilities, and those opportunities were not taken.

One thing led to another and you found yourself inside your unit, with the door locked, and two hostile teenage boys outside beating on the door, and beating on the window. They were armed with weapons. One had a baseball bat. One apparently had a table leg wrapped in tape. I accept that you feared for your safety. You did not know whether they were going to break in, but you thought they might. In that situation, you loaded your rifle, and, even though they had not broken in, you fired a warning shot through your window. You were not an experienced rifleman. You aimed between them and above them. But you could not really be sure where that bullet might have gone. You could not really be sure whether it might be deflected by passing through the glass of the window at some sort of angle. You did not really know who might be outside in the paddock where people were in the habit of walking to and fro. You did not really know whether that bullet might have reached the Bass Highway, which was in the direction of fire. The evidence from a ballistics expert at this trial is that, if uninterrupted, a bullet fired from that weapon might travel 2 or 3 kilometres. No doubt the window glass would have slowed it down. But you did not really know what might happen.

The verdict of the jury indicates that you either fired that bullet recklessly or did not take proper care for the safety of other persons. Those alternatives are really much the same. I am satisfied beyond reasonable doubt that you adverted to the possibility that that bullet might hit someone if things did not go according to plan, but that you decided to take that risk and fire the thing anyway. That is a very serious thing to do. It is something for which people can go to prison. Fortunately, nobody was hurt.

You are 65 years old. You were 62 at the time in question. You are a retired postman with physical problems that mean that you are on a disability support pension. You now need a carer to look after you. You have not been in any serious trouble since 2000. You have had no further trouble with the people who were irritating you over the last three years, even though you remained at the same address and they remained at their same address for a bit over 18 months. I think in all the circumstances, especially given your problems with joint pain, nerve pain and emphysema, that it would be unduly cruel to send you to prison. Instead, I think the most appropriate course is for me to impose a wholly suspended prison sentence and a fine. The suspended sentence will be on the basis that if you commit any further offence punishable by imprisonment, then that suspended sentence could be activated.

On the four charges, I convict you and sentence you to six months' imprisonment, wholly suspended on condition that you commit no offence punishable by imprisonment for a period of 12 months. I also order you to pay a fine of \$1,000. I order that you are to pay that amount within 28 days. I am not allowed to give you longer to pay, but the Monetary Penalties Enforcement Unit does have that power.