

Casey Nicholas Booth you have pleaded guilty to the crimes of aggravated burglary, stealing a firearm or firearm part and stealing. On 18 February 2020 you and another male, your cousin, travelled by car to a rural property, broke into the house and stole a number of items of personal property including jewellery, commemorative coins, a china set, a Huntsman Light force light and a Samsung Galaxy tablet. The value of the property stolen (excluding the firearms) was over \$5000. You also stole three firearms and some ammunition. You stole one .22 Stirling long rifle with a scope and light mount, one 12 gauge double-barrel shotgun and one air rifle. The ammunition you stole was half a box of 12 gauge ammunition, five boxes of .22 ammunition and one box of .22 hollow-point ammunition. The ammunition was suitable for discharge from at least some of the stolen firearms. The firearms were lawfully stored in a gun safe within the home. You accessed the gun safe by forcing it open. CCTV footage recorded your entry to the house. It also recorded you leave the house with the stolen property, and, with your co-accused, drive away.

When police were called they identified your co-accused from the CCTV footage. They subsequently attended at his residence. You were present there, as were a number of items of property which had been stolen.

Of note, the firearms were not located and neither you, nor your co-accused provided police with any assistance in terms of locating them. It is a reasonable inference that those firearms are now unlawfully in the community, probably in the hands of those who might use them for dangerous criminal purposes.

You were 32 years of age at the time of this criminal conduct. You are now 35. You have a terrible criminal history consisting of a large number of offences of dishonesty, violence, bail offences and driving offences. There are several examples of you breaching probation orders and breaching suspended sentences. Your offending started in 2002. You were dealt with for some ten matters of stealing of various degrees of seriousness as a youth, culminating in you being sentenced to periods of detention for offences of stealing in 2003. As an adult you have many prior convictions for offences of stealing. You have over fifty prior convictions for stealing and various dishonesty offences. In addition, you have five prior convictions for burglary, two prior convictions for aggravated burglary, and a prior conviction for motor vehicle stealing, attempted motor vehicle stealing and attempted stealing. You have over twenty prior convictions for common assault, and three prior convictions for assault contrary to the *Criminal Code*. You have numerous prior convictions for breaching interim family violence orders. You also have a prior conviction for being unlawfully armed in public. Some of these matters occurred after the commission of the crimes for which I am sentencing you. They are not prior convictions for sentencing purposes, but are relevant to totality and rehabilitation. On any view, your criminal history is most extensive.

In my view your record of prior convictions is an important factor in the exercise of the sentencing discretion. Your bad criminal record indicates an attitude of general disregard for the law and your obligations to comply with it. It is trite to say you are not to be re-punished for your previous behaviour, but it is reflective of the need for specific deterrence to be prominent in the sentencing process. It is noteworthy that you have no prior convictions for offences under the *Firearms Act*. Prior to the commission of these crimes, there had been something of a gap in terms of your dishonest offending. The last prior conviction for

dishonesty was in November 2016, with the offence occurring in October 2014. It was a matter of attempted stealing. Since these crimes, however, you have been convicted of further acts of stealing and motor vehicle stealing.

I have been provided with two psychological reports. They are somewhat dated (October and December 2019). The reports nevertheless provide insight into your background and disclose a most dysfunctional childhood. Your education has been interrupted. You have been exposed to violence and neglect in the home. Your upbringing has had a deleterious effect on your personality and general physiological health. You regularly experience anxiety, and have also experienced episodes of psychosis. You have a long standing history of substance abuse, in particular illicit drugs and methylamphetamine. These reports were prepared without reference to the crimes which I am sentencing. There is nothing in the reports to suggest I should consider the factors raised in *R v Verdins* [2007] VSCA 102, and counsel does not submit I ought to. Nevertheless your disrupted and traumatic upbringing and chronic substance abuse issues are relevant personal circumstances to be taken into account.

You are currently serving a period of imprisonment for offences committed after these crimes. On 27 July 2021, you were sentenced to nine months' imprisonment for family violence matters. On 16 September 2021, you were sentenced to further periods of imprisonment for family violence offences, evading police, common assault, stealing and a number of other matters. As far as I can tell, you have been in custody since 28 April 2021. Your earliest release date is 27 February 2022. I will take principles of totality into account when sentencing you for these matters.

I am told that during this most recent time in custody you have taken the opportunity to enrol in some courses. I am told you now recognise that your use of illicit substances has a marked negative effect on your mental health and you intend to pursue assistance both in terms of your mental health and your drug use upon release. You will also take up any opportunities that are available to you in custody to commence this work. You are motivated to improve things for yourself because you wish to maintain a relationship with your young son. Your son was born to the relationship that was the subject of many of the family violence charges. At the moment you are not seeing your son but you hope to resume a relationship with him upon your release. In the meantime you are undertaking some parenting courses whilst in custody to try and become a better parent and role model. In the hope that your expressed intention to make changes and improve yourself comes to fruition, I will make allowance for parole.

There is no question that the crimes committed by you were serious. They involved a degree of planning and persistence. The property you broke into was a relatively isolated rural property. You and your co-accused drove out there. You walked some distance in order to gain access to the complainant's property. When your initial attempts to enter the home through a number of doors were unsuccessful you persevered, eventually gaining access via a window. It is not clear whether you had prior knowledge that the firearms would be present at the house or not. Nevertheless you used force to open the firearms safe in order to obtain the firearms. The firearms safe was damaged.

Breaking into another person's home involves a terrible breach of privacy and intrusion into the sense of security the homeowner is entitled to enjoy. It causes distress to victims and is of concern to the wider community. That has been so here. I have had the benefit of reading the victim impact statement. The homeowners now feel very unsafe in their own home. Their fear that you would return caused them to lose sleep. They felt it necessary to add additional security

elements to their home. That has not alleviated their concern. They feel hyper-vigilant and anxious, and the pleasure of living in their rural property has been taken from them.

Stealing firearms is a matter regarded with great concern by the community, as reflected by the fact they are indictable offences. Criminal behaviour of this nature frequently results in dangerous weapons coming into the hands of criminals, introducing the potential for them to be used in the commission of serious crimes. Here the firearms remain unaccounted for. It is a reasonable inference that your unwillingness to provide any information as to their whereabouts, suggests it is unlikely the firearms are being used for any legitimate or innocent purpose. General deterrence is a significant sentencing consideration. So too is denunciation, and as noted, because of your extensive criminal history, personal deterrence also looms large in the exercise of the sentencing discretion.

I take into account your pleas of guilty. I note however they were entered at a late stage, in the week the trial was due to commence. The pleas nevertheless retain some utilitarian value although the credit you will receive, given their lateness, is only modest.

Casey Nicholas Booth, you are convicted of the crimes of aggravated burglary, stealing a firearm and stealing. I will impose one sentence. You are sentenced to ten months' imprisonment cumulative to any term of imprisonment currently being served. I order that you not be eligible for parole until you have served six months of that sentence. I make compensation orders in favour of Andrew DeVries and Sarah DeVries in amounts to be assessed.