

STATE OF TASMANIA v JASON CLIFFORD GORDON
COMMENTS ON PASSING SENTENCE

9 DECEMBER 2021
BRETT J

Mr Gordon, you have pleaded guilty to one count of being an accessory after the fact to murder.

This crime relates to the murder of Jarrod Turner by Shannon Duffy on the night of 13 and 14 April 2019. Duffy committed the murder by luring Mr Turner, supposedly a friend, to a remote location and shooting him in the head with a 12 gauge shotgun. He did this as Mr Turner was urinating on the side of the road and was completely unsuspecting of Duffy's intentions. On 13 November 2020, I sentenced Duffy to life imprisonment with a non-parole period of 18 years for this crime.

Your involvement in the aftermath of the murder came about because of your association with Duffy and another man, Alani Moeakiola. You and Moeakiola lived in a building known as the Shed, and although Duffy did not live there, he spent a lot of time with both of you. Moeakiola seems to have been regarded as a person of authority within this group, and your role was to be his driver. Duffy conceived the plan to commit this murder earlier in the day of 13 April. His purported motive was to seek retribution for an alleged sexual assault which he believed Mr Turner had committed against a female. This female was Duffy's friend, and had complained to Duffy about the alleged assault. Duffy arranged for Moeakiola to supply him with the firearm. Your involvement at that point was driving Moeakiola around as he acquired the firearm and then supplied it to Duffy. However, it is not alleged that you had any other involvement in Duffy's preparations for the murder, nor that you even knew about the provision of the firearm to Duffy at that point, or that he intended to commit this crime. You have not been charged with a crime that would incorporate any form of criminal responsibility in respect of events prior to or at the time of the murder.

The crime was committed by Duffy in the early hours of the following morning. The deceased's body was found at about 5:45 am. Duffy's partner, Ms Rumley Cantrell was with him when he committed the murder. She did not have prior knowledge of his intention to commit the crime, but had driven him away from the scene afterwards, and remained with him until his arrest by police on 19 April 2019. She pleaded guilty to one count of being an accessory after the fact to murder, and on 11 December 2020, I sentenced her to imprisonment for a term of two years and four months. I indicated at the time that were it not for the fact of her promised co-operation with authorities in respect of other prosecutions arising from this crime, she would have received a sentence of three years and six months imprisonment.

Duffy arrived at the shed at about 7:17 am on the day of the murder. You were there but you did not become immediately aware of what he had done. However, you did learn about it during the course of the morning. After that, you assisted Moeakiola in a course of conduct designed to cover up Duffy's involvement in Mr Turner's death and to help him avoid apprehension by the police. Your role in these events is as follows:

- (a) Later that day, you drove with Moeakiola to collect Duffy and Ms Rumley Cantrell from a house in which they were hiding, and transported them back to the shed.

- (b) You then drove Duffy and Moeakiola to the address of another person in Snug. The purpose was to seek her assistance in disposing of property and covering up Duffy's involvement in the murder. While there, Duffy, Moeakiola and you had a discussion, in which a plan was formulated about this, including how you would dispose of the firearm. You also told the person in the house to destroy Duffy's shoes. At one point, you were heard to say, in respect of Ms Rumley-Cantrell's knowledge of the crime, that "You can't leave witnesses". However, it is not suggested that this was serious attempt by you to introduce the notion of doing anything to Ms Rumley-Cantrell, but it does emphasise that you were an equal participating part of the group which was actively planning how Duffy's involvement would be covered up, and how he would avoid arrest and prosecution for the murder.
- (c) At a later time that day, you assisted Duffy and Moeakiola in the destruction of the firearm. The gun was cut up and the pieces thrown into the sea. Your only physical action was to drive the motor vehicle, but it is abundantly clear that you knew what was happening with the firearm, and were complicit in its destruction.
- (d) After this, Duffy and Rumley-Cantrell were taken by another person to a pre-arranged residence in Fingal, where they remained in hiding until their arrest by police on 19 April. This accommodation was arranged by Moeakiola. On 19 April, it was intended that you would drive Moeakiola there for the purpose of supplying them with various items, but your journey was interrupted when you both became aware of their arrest by police.

You were 32 years of age when you committed the crime, and you are now 34. You have three young children from a prior relationship. Your father died when you were very young. You lived with your mother and her new partner but there were difficulties in the house, and at 13 years of age, you were taken in by the Moeakiola family. You lived with them until the age of 18. It was during this time that you developed a close relationship with Alani Moeakiola. You became involved with him again after the break-up of your relationship in December 2018. You were homeless and he offered you accommodation and other support in exchange for your services as his driver. This arrangement was in place when you committed this crime.

Your criminal history is relatively extensive and demonstrates ongoing offending from the age of 15 until you were remanded in custody in respect of this crime. The offending is varied but mainly relates to dishonesty and traffic offending. There is one prior conviction for the offence of harbouring an escaped prisoner. You committed this offence in December 2006 and were sentenced to imprisonment for this and numerous other offences on 23 January 2008.

The crime of being an accessory after the fact to murder is inherently serious. The crime is constituted by providing a killer with assistance to escape punishment. The gravity of this is self-evident. In this case, Duffy had committed, in cold blood, a shocking premeditated killing. The crime was a terrible repudiation of the sanctity with which human life is regarded in our society. It has had devastating impact on his family including his children, and I am sure others who knew him. It was committed in a public place and had real capacity to cause widespread fear and concern in the community. Of course, any such concern could only be exacerbated by any delay in the apprehension of the culprit. You were directly and intimately involved in assisting Duffy to avoid police for several days and in the destruction of critical evidence implicating him in the killing.

These actions had real impact on the efficacy of the investigation. I do not think that the mere fact that you only drove the motor vehicle, including when the firearm was being destroyed and disposed of, reduces to any great extent the objective seriousness of your crime, or your moral culpability for it. The fact of the matter is that Duffy felt that he could turn to Moeakiola and to you for support and assistance. Your actions provided him with direct practical help, as well as solace and moral support. You provided this readily and without hesitation. You could have been under no misapprehension as to how serious this was, nor as to the impact of his escape, or even a delay in apprehension on Mr Turner's family and the wider community. Further, your assistance with the destruction of the firearm in particular is a significant matter. This had real capacity to affect the prosecution of Duffy and hence the question of whether he received appropriate punishment for his crime. In the end, he pleaded guilty to the murder, but at the time you committed this crime, it was clearly contemplated by you that the destruction of the firearm would help shield him from liability for the murder.

It follows that this is a serious example of the crime of being an accessory after the fact to murder. There is a need for a sentence which emphasises general deterrence and denunciation. Further, having regard to your general disregard of the law as evidenced by your criminal history and your lack of hesitation in becoming involved in covering up an extremely serious crime, there is a need, in my view, to consider the question of personal deterrence when assessing sentence. I will, however, take into account in your favour your plea of guilty, which although belated, will have some utilitarian value.

Jason Gordon, you are convicted of the crime to which you have pleaded guilty and sentenced to imprisonment for a term of five years. That sentence will be backdated to 23 February 2020. You will not be eligible for parole until you have served one half of the sentence.

To the extent that there has been any suppression order in place in relation to Mr Gordon, that suppression order is vacated and publication can occur in the normal way.