

STATE OF TASMANIA v JASON LEE RILEY
COMMENTS ON PASSING SENTENCE

31 JANUARY 2022
PEARCE J

Jason Riley, you plead guilty to robbery. At about 9.30 pm on Saturday 7 August 2021 the complainant, a male taxi driver then aged 54, collected a fare from near the shopping district in Mowbray. The passenger was a young female. On the way he stopped outside the Mowbray Primary School and you got into the cab. You knew the young female but she had nothing to do with what was about to happen. When the taxi arrived at the destination in Invermay you reached in through the open drivers' window and grabbed for the cash in the complainant's shirt pocket. He had \$230 in that pocket. When the driver grabbed your hand and put his head down you punched the back of his head seven or eight times with your other hand. He managed to drive away but not before some of his money, about \$120 was stolen by you. He later found the rest of the cash had dropped beside his seat into the rear footwell.

The complainant saw you enter a unit nearby and called the police. You were identified by the police from the taxi CCTV and were arrested about 10 days later. The amount of money involved in this robbery is not a significant consideration. It is the violence involved which is of particular concern. Your conduct was arrogant and disturbing. You inflicted multiple forceful blows. Taxi drivers are particularly vulnerable to this type of attack and are entitled to the protection of the law. There is no victim impact statement but there could not help to be some psychological effect on a man simply trying to go about his business.

You are an indigenous man. You were 19 at the time of this crime and are now aged 20. As a child you were subject to abuse and neglect and exposed to criminal behaviour from others within your immediate and extended family. You have limited education and have been abusing drugs and alcohol since your early teens, methylamphetamine in particular since you were 15. You already have a poor record for dishonesty and violence strongly linked to illicit drug use. You have been sentenced to periods of detention and imprisonment, both suspended and actual. You have also been made subject to many community based orders, including periods of supervision and community service, but your level of compliance thus far has been poor. There are some signs of improvement, especially with enforced abstinence from drugs resulting from periods of custody. Because of the obvious close link between your drug use and this crime I sought a report about your suitability for the making of a drug treatment order. It is accepted by the State that although this crime involved violence, it did not result in any actual bodily harm which was not minor. The author of the report expresses some reservations, which I share, in light of your previous non-compliance with community based orders about whether you can comply with the onerous requirements and conditions of a drug treatment order. However you will have the support of the Tasmanian Aboriginal Corporation and members of the aboriginal community, and in light of your age and plea of guilty, I have concluded that the focus should be on your rehabilitation rather than punishment. If you do not take advantage of the chance offered by an order in this form then prison is the almost certain result.

By committing this crime on 7 August 2021 you breached a 12 week suspended sentence imposed on 4 November 2020 and a four week suspended term imposed on 2 March 2021 but they have already been activated. You were due for release from your most recent sentences in early November 2021 and you have been in custody since then. Once released you will also be subject to a community corrections order imposed by a magistrate.

You are convicted on the indictment. I make a drug treatment order pursuant to the *Sentencing Act* 1997, s 27B. The custodial part of the order is a term of imprisonment of 12 months. You are not required to serve all or any of the custodial part of the drug treatment order unless it is activated. It may be activated if you fail to comply with the treatment and supervision part of the order which has the following core conditions:

- 1 you must not, in Tasmania or elsewhere, commit another imprisonable offence;
- 2 you must attend the Magistrates Court at Launceston at 2.15 pm on 15 February 2022 and at any other time and place as directed by the Court, your case manager or court diversion officer;
- 3 you must report to a case manager or court diversion officer at 111 Cameron Street, Launceston within 2 clear working days of your release from custody;
- 4 you must undergo such treatment of your illicit drug use problem as directed by your case manager or court diversion officers or as from time to time specified by the Magistrates Court or this Court;
- 5 you must report to, and accept visits from your case manager, or court diversion officers;
- 6 you must reside at [address] or such other address as may be approved by your case manager, and you must, unless there are special circumstances, give your case manager at least two clear working days' notice before any change, or proposed change, of address;
- 7 you must be present at [address] (or any other address as advised to your case manager in accordance with condition 6 above) between 10pm and 7am daily, and present yourself to officers of Tasmania Police during those hours if required;
- 8 you must not leave Tasmania except with the permission, granted either generally or in a particular case, of the Magistrates Court or this Court;
- 9 you must comply with all lawful directions of the Magistrates Court or this Court; and,
- 10 you must comply with all reasonable directions of your case manager and court diversion officers concerning the core conditions and program conditions of the order.

There will be further program conditions of the order that:

- 1 you must not consume alcohol;
- 2 you must submit to detoxification or other treatment, whether or not residential in nature, as directed by your case manager or court diversion officer;
- 3 you must submit to urinalysis and oral fluid testing and any other form of random drug and alcohol testing as directed by your case manager or court diversion officers during the life of this Order;
- 4 you must attend vocational, educational, employment, rehabilitation or other programs as directed by your case manager or court diversion officer;
- 5 you must submit to medical, psychiatric or psychological treatment as directed by your case manager or court diversion officer;
- 6 you must not associate with persons or classes of persons as directed by your case manager or court diversion officer;
- 7 you must not use any non-prescribed substance or illicit drug;
- 8 you must not use any medication unless prescribed to you by a treating medical practitioner, approved by your court diversion officer and in accordance with the medication directions for use;
- 9 you must attend counselling as directed by your case manager or court diversion officer;

- 10 you must maintain the use of, and remain contactable by, a mobile phone capable of
sending and receiving messages about drug testing, case management and/or
counselling appointments from your case manager and court diversion officers; and,
- 11 you must remain contactable by means of that phone at all times;
- 12 you must reside at [address] and not change that address without the approval of your
court diversion officer or case managers, the Magistrates Court or this Court.