

6 DECEMBER 2021

Mr Howard you have pleaded guilty to unlawfully injuring property and robbery and a single count of stealing. You were 38 at the time of your offending. In relation to the charge of unlawfully injuring property on 7 February 2020 at a little after 4pm, the first complainant in this matter saw you outside his property at Clarence Street in Howrah, while he was retrieving something from his car which was parked on Clarence Street. You called out to him asking for him to take you up the road. You asked for his car keys. You had a glass bottle of spirits with you. He said he would not give you a lift and walked away. You said "well I will fight you then". He walked through his gate and shut it and said he wouldn't fight you. You walked back off towards Clarence Street and past his car. You punched the car window twice and picked up what appeared to be a rock and you threw it at the bonnet of the car. The complainant walked back to his car and saw the front passenger window had been damaged and that there was a dent on the bonnet of his car.

In relation to the robbery, at about 4pm, the second complainant was at home in Howrah and received a call from his mother asking him to go to her house in Bellerive. He rode his bike to her house along Ninabah Street and Clarence Street. As he was crossing on Clarence Street on his bike he was stopped by you. You grabbed him. You held his arm tightly. You asked him if he has any money. He said he did not. You said to the complainant that you would give him \$100 up front or methamphetamine if he would lend you his bike. He refused. You then asked him if he had any valuables and he stated that he did not have any. You then asked him to give you his phone. He tried to give you his headphones instead. You said to him "they are a piece of shit", "give me your phone or I am going to kill you and smash a bottle over your head". You were still holding the bottle of spirits at this time. He became scared and gave you his phone. You were still holding his arm. You tried to open the phone but realised it had a pin code. You asked him for the code saying "give me the pin code or I will kill you". You still had the alcohol in your hand. He gave you the pin code and you unlocked the phone and let him go. You walked away. He went to his grandmother's house where he was crying and shaking on arrival. This conduct was also observed by a witness.

Shortly after that, between 4pm and 4.30pm the third complainant in this matter was walking along Allumba Street Howrah. He was approached by you. You asked to use his phone. He handed you his phone and you handed him a black mobile phone, which was the phone you had taken from the second complainant. The third complainant later handed in that phone and it was in working condition. You called someone on his phone and became angry with that person and you hung up on them. You then said to the third complainant, that he would have to fight you to get his phone back. He became concerned by your behaviour and walked away without his phone. Later in the day you walked back along Clarence Street where you were located by police, arrested and transported to Hobart Police Station. You made no comment at interview.

You indicated to the State that the matter was capable of resolution prior to a pre-recording of the second complainant's evidence. I am told that he had not been briefed with respect to his evidence but had engaged with the DPP in relation to this matter at the time.

Offending involving acts of violence and dishonesty is a significant feature of your record. It cannot be said that the sort of aggressive behaviour exhibited here, or indeed the dishonesty is out of character for you.

Your offending is serious, and it will have had a significant impact on all of the complainants but particularly upon the second complainant who is just a boy.

Having regard to the seriousness of this matter I have decided to impose a term of imprisonment upon you, to punish you, and to deter you from further conduct of this sort, and, to deter others. Such sentence properly vindicates your victims.

I have regard to the time spent in custody for the purpose of fixing that penalty. At the time you last appeared before me according to my notes you had spent some 86 days in custody in all in relation to these matters.

Having regard to the seriousness of your offending I convict you and order that you be sentenced to 9 months' imprisonment on the indictment backdated to when you went into custody. Noting that you have spent some considerable time in custody already, and as an incentive to your taking stock and focusing on your rehabilitation I have decided to suspend the balance of that sentence on condition that you are of good behaviour for a period of three years and commit no offence punishable by imprisonment in that time.

In taking that course I have regard to the matters put in mitigation and have regard to the contents of the pre-sentence report. The focus of that report is ultimately upon your rehabilitation and it is noted in that report that your needs are high and it is recommended that you be made subject to a supervision order. I accept that recommendation and I accept too the recommendation made by the probation service that such order be for a period of 12 months. The focus of that supervision will be upon addressing your alcohol and drug abuse and I direct that you are to follow and obey the directions of your probation officer in respect to treatment for drug and alcohol use. That is a special condition that I impose over and above the standard conditions that are attached to such order.

So the effect of the penalty that I have imposed today is that I have had regard to the time that you have spent in custody, nearly three months, it is actually more than three months now, and I have suspended the remainder of the sentence but you must be of good behaviour for three years. If you commit an offence punishable by imprisonment in that time you are liable to serve the remainder of the sentence that I have imposed today. I have done this with a view to encouraging your rehabilitation because I accept the thrust of the submissions made to me by your counsel and the contents of the report. You will be assisted in your rehabilitation by the supervision order which I have just made which operates for a period of 12 months and you should take advantage of that. Your record is a poor one and it is time for you to turn a corner and make some changes. I am satisfied on the materials that I have read that there are enough indications that you are ready to do that.

I make the compensation orders that are sought by the State.