

COMMENTS ON PASSING SENTENCE**WOOD J**

Anthony Maxwell Giblin has pleaded guilty to aggravated burglary, stealing firearm or firearm part, burglary and motor vehicle stealing.

On 9 March 2021, during daylight hours, a residence at Dulcote was unlawfully entered. The complainant had left his house and shed securely locked.

On his return, the complainant found that entry had been gained to the house by forcing one of the doors. In the main bedroom, the drawers of a cabinet were open which had contained the keys to the gun safe kept in the shed and a set of keys to the complainant's Nissan Patrol station wagon. His Nissan Patrol, kept in the shed was missing. The roller door to the shed was up and a side door was damaged. The complainant had a gun safe inside the shed. All of his firearms were missing from the gun safe: a Mossberg 410 gauge shot gun, a Birmingham .22LR rifle and a Remington 270 WIN rifle. The value of the firearms was \$1500. The keys to the gun safe had been left by the thief or thieves in the lock of the ammunition compartment inside the safe.

On 11 March 2021 the complainant's Nissan Patrol was found parked on a street in Mount Stuart. There was some minor damage to the driver's door lock. A swab of the steering wheel and the door to the shed revealed a strong match with the defendant's DNA. In July, it was ascertained that the defendant was living in Queensland. He was arrested on his return to Tasmania on 23 November 2021. He participated in a video interview with police, and said that before he left Tasmania he was using methylamphetamine every day. He could not recall doing a burglary at Dulcote or remember where he was on that day. If he was there, he was taken there, and he indicated he may have assisted. The defendant was remanded in custody and has been in custody since 23 November.

Two of the firearms, the Mossberg shot gun and Birmingham rifle were recovered by police in March 2021 during a search of an address of someone known to police. That person has prior convictions for violence, drugs and dishonesty offences.

I have a victim impact statement from the owner of the property. He describes returning to his property with his young children and being fearful that the intruders were still on the property. His eldest child was very upset after the burglary. The complainant has found the crimes unsettling and is concerned that his property was targeted.

The defendant is 33 years of age and has Tasmanian convictions for driving offences. He has a recent conviction in New South Wales and in Queensland for summary offences, attracting a fine.

His offending in March 2021 arose after a significant deterioration in his personal circumstances. He had had a successful business as a painter, having built up that business over a period of approximately 10 years. He was in a stable relationship and had two children. Then in approximately 2018 or 2019 his relationship broke down. He stopped seeing his children, his work suffered and his company went into liquidation. In the face of major personal and financial issues, he developed a serious drug problem, using crystal methamphetamine almost every day. It was in these circumstances he committed these crimes. He did not plan

the offences and did not profit from them. He committed the crimes with another person, the same person who retained the firearms located by police.

He left Tasmania to go to Queensland in May to break away from associates who were having a negative influence on his life. He made significant efforts to address his drug problem and did so successively. He returned to Tasmania to see his children, child safety services had become involved because of concerns with respect to their mother. While in custody he has had appointments by audio-visual link with his children. He is a dedicated father, highly motivated to re-establish his relationship with his children.

The defendant has a very supportive mother and she is able to provide him with accommodation on his release from prison and to help him get back on his feet. He wants to find work in his trade as painter or, if he is not able to do, he intends to retrain.

I take into account that on his return to Tasmania in November last year, he entered pleas of guilty at a very early stage.

In view of the defendant's excellent industrial record, his lack of prior offending for offences of dishonesty or regarding firearms, his motivation to get his life and employment back on track, provide for his children and be reunited with them, and that his offending was closely linked to his drug addiction which he has successfully addressed, I conclude that the defendant has strong prospects of rehabilitation. He has spent now some three months in custody which for him, has been a substantial punishment and deterrent.

The burglary of a home, the offence of motor vehicle stealing, breaking into a secure gun safe and the theft of three firearms, one of which is still at large in the community, involve serious crimes and a deterrent penalty is required. While the sentence does need to be effective in that regard it must also reflect the personal circumstances of the defendant and, as I have said, his strong prospects.

There is, at this stage, every sign that the defendant will put this chapter of his life behind him and return to a productive and law-abiding path.

I record convictions. I impose a global sentence of 11 months' imprisonment, backdated to 23 November 2021. The balance from today is suspended on condition that he not commit an offence that could attract a sentence of imprisonment for the period the order is in force, being 18 months from the day he is released from prison. Further, he is to be subject to the supervision of a probation officer. Certain conditions attach necessarily and there are two additional ones that I impose. All of these conditions apply for the period of 18 months from the day he is released from prison, which is his good behaviour period. Mr Giblin, these conditions are as follows:

- You must submit to the supervision of a probation officer as required by the probation officer;
- You must comply with the reasonable and lawful directions of a probation officer;
- You must report to a probation officer at 114 Bathurst Street, Hobart no later than 5pm the day after you are released from prison;
- You must not leave or remain outside Tasmania without the permission of a probation officer;
- You must give notice of any change of address or employment before, or within 2 working days after the change;

- You must, during the operational period of the order, undergo assessment and treatment for drug dependency as directed by a probation officer;
- You must, during the operational period of the order, submit to testing for drug use as directed by a probation officer.

10 March 2022

It is noted that the period of imprisonment suspended from 24 February 2022, for a period of 18 months, was suspended on condition that the defendant must not commit an offence that could attract a sentence of imprisonment for a period of 18 months from "the day he is released from prison", on other matters. The other conditions were also to apply for 18 months from the date of his release. It is noted that, at present, there is uncertainty as to that date of release which in turn gives rise to uncertainty as to the commencement of the conditions. Having heard from counsel further, the following corrections are made to the sentencing order.

The period of imprisonment, suspended from 24 February 2022 is subject to a condition that he must not commit an offence that could attract a sentence of imprisonment for a period of 18 months from 24 February 2022. The other conditions are to commence on the 24 March 2022 for the remainder of the operational period of the order (18 months from 24 February 2022).