

**STATE OF TASMANIA v ADRIAN ALWYN PICKETT
STATE OF TASMANIA v CRAIG JOHN SMITH
STATE OF TASMANIA v DAMIEN STEVEN MATTHEWS
COMMENTS ON PASSING SENTENCE**

4 APRIL 2022

ESTCOURT J

The defendants have each been found guilty by a jury of one count of aggravated burglary and one count of aggravated assault. Additionally the defendant Pickett has pleaded guilty to one count of unlawfully injuring property and one count of dangerous driving.

On 17 February 2019 at about 6.00am in the morning the three men went to the property of the complainant Jason Lawrence at Coalmine Bend Road, where one of them at least fired two shots from a rifle into the outside of the house where Mr Lawrence and members of his family were sleeping, and one or more of the defendants entered the building and endeavoured to break into the inner section of the house with a crow bar and a pole.

The complainant and his father came out of the house and the defendants fled. The father fired a rifle in the direction of the defendants, hitting the defendant Smith in the left upper leg. I accept that is an extra curial punishment given that it appears he was lawfully shot while committing a crime.

I am satisfied that the three were aiding and abetting each other in the commission of the crimes in going to the complainant's property in each other's company in order to assist the defendant Matthews to recover an asserted debt from the complainant. I am unable to find which of the defendant's carried out which of the acts constituting the crimes.

Notwithstanding that I note what has been put by counsel on behalf of each of the defendant's, there are in my view, no significant mitigating circumstances and there is nothing in my view to distinguish between the culpability of the three defendants. Save as to Smith who suffered an injury as a result of being shot, and who asserts without contradiction that he has ongoing pain as a result. I take that into account in sentencing him. Each of the three defendants, all to a greater or lesser degree, have bad records with extensive prior convictions for dishonesty and violence, including the use of firearms.

The defendants are each convicted and the defendants Pickett and Matthews are sentenced to two years and six months' imprisonment, with parole eligibility after serving half of that sentence. The defendant Smith is sentenced to a period of two years' imprisonment with parole eligibility after serving half of that sentence.

The defendant Pickett's sentence is backdated to 11 July 2021 and the defendant Matthews' sentence is backdated to 25 November 2021. The defendant Smith's sentence is backdated to 28 January 2021.

As noted, the defendant Pickett has also pleaded guilty to one count of dangerous driving a few hours after the offending at Colebrook when attempting to avoid arrest by fleeing from police. Pursuant to s 385A of the Code, I have also agreed to deal with a summary charge of evading police in aggravated circumstances, a summary charge of driving whilst disqualified, a

summary charge of possess a controlled drug (minor offence) and a summary charge of refusing to submit to the taking of blood (breathalyser).

The defendant Pickett drove in a dangerous manner, although not at great speeds, on Allunga Road, the Claremont Link Road and the Brooker Highway where he ended up colliding with the two unmarked police cars pursuing him. It was at a relatively early hour on a Sunday morning. Traffic was not heavy, it was a two lane highway at the point of collision, the weather was fine and the road was dry.

The defendant has prior convictions for evading police and a prior conviction for dangerous driving, although that conviction is of considerable age.

In all of the circumstances and taking into account considerations of totality, the defendant Pickett is convicted of dangerous driving and unlawfully injuring property and is sentenced to 12 months' imprisonment cumulative to the sentence I have just imposed, and with parole eligibility after serving six months of that 12 month sentence.

In respect of the evade police charge, which must be dealt with separately, the defendant is convicted and sentenced to 3 months' imprisonment, concurrent with the sentence of 12 months imprisonment I have just imposed in respect of the charge of dangerous driving.

In respect of the charges of refusing a blood test (breathalyser), driving whilst disqualified and possessing a controlled drug the defendant is convicted and sentenced to 6 months' imprisonment concurrent with the sentence of 12 months' imprisonment I have just imposed in respect to the charge of dangerous driving. He is disqualified from holding or obtaining a driver's licence for a period of two years from the date of his release from prison.

The effect of my sentences Mr Pickett is a period of three years' and six months' imprisonment of which you must serve half, that is, one year and nine months, backdated to 11 July 2021 before being eligible for parole.