

STATE OF TASMANIA v MARGARET DAWN SMITH
COMMENTS ON PASSING SENTENCE

16 MAY 2022
BLOW CJ

Margaret Dawn Smith you have pleaded guilty to seven charges of dealing with property suspected of being proceeds of crime. These charges all relate to some money that was paid into your bank account in February 2020 by a fraudster who had taken advantage of you.

The relevant facts began in 2017. You were lonely. You had been through two unsuccessful marriages. You had to deal with domestic violence and a partner with an alcohol problem. You went onto a dating website and made contact a person who used the name John Andrews. There is no chance that that was the person's true name. I cannot even be sure that the person was a male. You exchanged communications regularly for three years. The person said that he, assuming it was a he, was in the United States Army and initially in Afghanistan. You did not ever meet. You did not ever see a picture of him. But you were practically in daily communication, and you fell in love with this fictitious person. Twice you spoke to the person on the phone, and one day in February 2020 out of the blue \$13,750 arrived in your bank account.

That was the proceeds of a fraud. A man who was buying land in Victoria had received a fraudulent email asking him to pay a 5% deposit for the purchase of the land into a particular bank account. It was your bank account. It is an unfortunate fact that man fell for the trick that was being played on him and paid \$13,750 into your account, believing that he was paying it towards the land that he was purchasing. Then you received a series of messages from the John Andrews person telling you what to do with the money that arrived in your account. On seven occasions you engaged in transactions that dealt with the bulk of that money. Some of that you passed through your son's account, and all but \$500 passed through your hands. You were allowed to keep \$500 by the John Andrews person. You did what you were told with the money. You suspected the money was the proceeds of criminal activity but you did not want to admit to yourself that you had been fooled, and that the love you had for the John Andrews person was love for someone who did not exist. Your relationship had come to nothing.

It is worse than that. You have had a terrible life. You were a single mother bringing up young twin girls, each with serious medical problems - one of them with Down syndrome as well as other medical problems. All of these events occurred within about four days in February 2020. At the end of that period you realised that you have had been taken advantage of, and that the John Andrews person was not a real person. You repaid the \$500 to the Commonwealth Bank and ended up with no financial benefit from all of this.

You have a prior conviction in 1998, more than 20 years before these events. You made a fraudulent insurance claim, falsely alleging a vehicle had been stolen and making a claim for \$950. That was at another dreadful time in your life when your first marriage had come to an end.

Since the events that I am concerned with you have had more terrible problems. One of your daughters was sexually abused. You have moved interstate to get away from the places where the sexual abuse took place, and where things that you would like to forget took place. You have gone to Victoria with a view to getting better medical treatment for your daughters.

You pleaded guilty to these charges at a very early stage. You have travelled to Tasmania three times for the purpose of the court proceedings and had to bring your daughters with you each time. You are 50 years old. You are a disability support pensioner, and you suffer from anxiety, depression, diabetes and spinal problems.

From the point of view of the law you are an offender, but from the point of view of what happened in this case you are also a victim. Although you are responsible for over \$13,000 of fraudulently obtained money passing through your hands, I do not think this is an appropriate case for me to send you to prison or to require the payment of the fine. However, because of the quantity of money involved, I think the most appropriate order for me to make is a short wholly suspended prison sentence.

I convict you and sentence you to one month's imprisonment, wholly suspended on condition that you commit no offence punishable by imprisonment for a period of six months.