

Ms Banfield, the defendant has been found guilty by a jury of one count of robbery. The facts as I find them to be are as follows. The complainant is Janena Mann who was the owner/proprietor of a ladies fashion boutique situated in North Hobart. They stocked clothing and accessories which included jewellery handbags and shoes. At about 2.45pm on 29 February 2020, Ms Mann was alone in the shop and sitting at the counter. She heard a noise from the front of the store. When she went to investigate she saw that a glass jewellery cabinet was open and somebody was kneeling down between the cabinet and a rack of clothing, taking jewellery from the cabinet. The person, established by the verdict to be the defendant, was carrying a bag. Ms Mann first asked if she could help and when she saw what the person was doing, said "What are you doing, you are taking my jewellery", or words to that effect. The defendant replied, "It's not me, it's the woman out the door." Ms Mann then asked her to empty the bag and return the jewellery. When the defendant refused, Ms Mann grabbed the strap of the bag at which point the defendant bit her on her right hand and continued to hold the bite for a short time. She also punched Ms Mann to the face and upper arm and pushed her to the ground. As a result of the push Ms Mann landed on her side and hit her head. The defendant fled with some jewellery, worth approximately \$3,350. Ms Mann rang '000' and requested police assistance. The defendant left behind a pair of sunglasses which were taken by police, and finger prints were detected on the jewellery cabinet. Police took a swab of Ms Mann's hand where she had been bitten. The defendant became a person of interest. A few weeks later Ms Mann was shown a photo board for identification purposes. That contained 12 photographs, including one of the defendant. Ms Mann eliminated eight people but was not able to narrow it down beyond four, one of whom was the defendant. The defendant's finger prints were later matched to two prints found on the glass of the jewellery cabinet. DNA analysis of the swab effectively showed an extremely likely match to the defendant's DNA. The defendant was interviewed on 18 March 2020. She denied involvement, saying, among other things, that she did not know where North Hobart was. None of the jewellery has been recovered.

I have a victim impact statement of Ms Mann dated 3 May 2022. The robbery seems to have had quite a profound effect on her. For a few days, she was sore from the two bite wounds to her hand. She continues to suffer pain in her hip. For a time she was extremely worried about the possibility of contracting blood borne infection from the bite wounds, and she had to have several tests over a period of six months to monitor the situation. Before the incident she worked in the shop on six days each week. Her business was her passion but she is now too traumatised to go into the shop without her partner accompanying her. He often works in the shop by himself. As Ms Mann described it, it is not the ideal scenario having an elderly gentleman running a ladies fashion shop. His recent poor health has forced the closure of the shop for some six weeks and she has now made the decision to close the shop permanently. Her low mood has caused difficulties in the relationship. She has also suffered financially as she has had to seek employed work. She says that she has been feeling emotionally shattered and alone and no longer trusts people as she should.

The defendant is now 39 years old. She seems to have had a most unfortunate background and has a truly appalling recorded history of offending, mostly relating to offences of dishonesty. In the main, this arises from drug use and addiction. Dishonesty as a youth started at the age of 10. On Crown counsel's count the defendant has been convicted of approximately 140 counts of stealing, 85 of obtaining goods by false pretences, 29 of aggravated burglary 22 of forgery, 25 of uttering and 9 of burglary. There are 13 convictions for assault or assaulting police

including a conviction for a *Criminal Code* assault. Significantly, in December 2001 she was convicted of aggravated robbery and sentenced to 12 months' imprisonment. In September 2016 she was convicted of aggravated armed robbery for which, along with the Code assault mentioned she was sentenced to 2 years' imprisonment with a non-parole period of 15 months. Her present situation is that she is serving cumulative terms of imprisonment which were imposed on 14 April this year backdated to 4 November 2021, those sentences being imposed for more recent offending – violence and stealing from shops – as well as by way of re-sentencing for earlier similar matters. I note that the sentences presently being served expire on 3 December 2022, but that she is eligible for parole very shortly; 17 May 2022. The defendant has been sentenced to suspended terms of imprisonment, has had the benefit of community based orders and therapeutic orders including a drug treatment order, and served terms of imprisonment, regrettably all to no avail. She did manage to successfully negotiate the parole period from the 2016 sentence although she had previously breached parole granted in respect of an earlier sentence. Of significance is the fact that both the 2001 aggravated robbery and the 2016 aggravated armed robbery involved not dissimilar circumstances to these. On the first occasion, she fought off a shopkeeper attempting to prevent her from stealing a handbag, and on the second occasion she stabbed a security officer with a syringe when that person was attempting to prevent her from removing stolen goods from a store. It is quite clear that a very large number of the dishonesty offences involve stealing from shops. As I have mentioned, it is also quite clear that a significant entrenched drug abuse problem has been at the heart of the offending. She steals to fund her addiction. She was using heavily at the time of this offence. I was told that sometime after this offence, the defendant sought assistance from a rehabilitation provider but that lasted for only a few months before she was imprisoned. Apparently, she has written a letter to the Court, which I have not seen, but expresses regret for her actions. Since being in prison she has sought assistance from within the prison in relation to her problems, and hopes to pursue those rehabilitation efforts when they are available to her. It goes without saying that this was a serious incident. The attack on Ms Mann, particularly involving a bite as it did, was disgraceful conduct. Shopkeepers and security staff employed by them are often in vulnerable situations and require the protection of the law. General deterrence and condemnation are prominent factors. In this case specific deterrence is a very weighty factor and, it seems to me, protection of the public needs to be considered. I am prepared to accept that there is some degree of motivation to change, and rehabilitation should always be encouraged, but that is not a factor of great weight in this case given the circumstances. I take into account the length of the sentences to which the defendant is subject.

Ms Banfield, I have set out what I see to be the relevant considerations in your case. To bite and otherwise attack the victim as you did in order to steal from the shop is appalling conduct. This was not the first time you have behaved in this sort of way. All previous attempts by the Court's to deter you and to rehabilitate you to prevent re-offending have failed to date. A lengthy term of imprisonment is inevitable. You are convicted and sentenced to two years' imprisonment to be served cumulatively to the sentences presently being served. In order to foster what prospects of rehabilitation there are, and bearing in mind the present sentences, I will allow parole eligibility and I order that you not be eligible for parole until you have served 14 months. I make a compensation order in favour of Janena Elizabeth Mann and adjourn the further hearing of that application to a date to be fixed.