

Mathew Etherton you have pleaded guilty on indictment to two counts of dealing in firearms when not the holder of a firearms dealers licence. The first count relates to a firearm described as a "homemade single shot pistol". The second count relates to homemade firearm parts. You have also pleaded guilty to one count of possessing a prohibited firearm to which a firearms licence may not be issued. This relates to a gel blaster imitation H&K self-loading/select fire submachine gun. Additionally, you have pleaded guilty to summary offences on complaint 52830/2020 of failing to take all precautions to ensure the safe keeping of firearm and ammunition (this relates to the firearms and the firearms parts already mentioned and some ammunition found in your backpack and at your home); possess ammunition when not the holder of an appropriate firearm licence (relating to that same ammunition); possess a controlled drug namely methamphetamine and possess a thing used for the administration of a controlled drug. You have also pleaded guilty on complaint 53256/2020 to a count of fail to appear. On 25 August 2020 you failed to appear, pursuant to a bail order in the Devonport Magistrates Court in respect to these matters. I will deal with the summary offences by way of s 385A of the *Criminal Code*.

On 27 April 2020 Tasmania Police intercepted a motor vehicle in which you were a passenger. A police dog provided a positive indication and a search of the vehicle was conducted. You had a backpack in the vehicle. When asked by police if there was anything in the backpack you stated "a firearm and ammunition". The backpack was searched. A quantity of live and expired .22 ammunition was located. Also located was a homemade hand gun, and a plastic box containing parts in the shape of a hand gun and other miscellaneous metal parts. The backpack also contained a notebook with drawings of hand gun designs. When spoken to at the scene by police you said "I am just a prepper basically". In relation to the drawings of the firearms you stated "I just liked to draw". You did not have, at the time, any form of firearms licence.

The defendant was arrested and during a subsequent search a snap lock bag containing 0.65 grams of methamphetamine was located. Later the same day police obtained a search warrant and searched your residence. A quantity of assorted ammunition, an ice-pipe and the gel blaster imitation H&K self-loading/select fire submachine gun were located.

On 28 April 2020 a second search was conducted at your residence. The following items were seized:

- A grinder, a drill press, a welder, a bag containing metal parts and metal shaving samples.

A ballistics examination determined that the homemade firearm located in your backpack was in working order and was capable of propelling a projectile by means of an explosive which could inflict a lethal wound upon a person.

You are guilty of dealing in firearms on the basis that you manufactured the homemade single shot pistol and the homemade firearm parts. The term "dealing" is defined in the *Firearms Act* to include manufacturing. There is no evidence to suggest that you were going to sell or to distribute the firearm. I will sentence on the basis that you held no such intention.

You do not have any recorded prior criminal history relevant to firearm offences. You do have some prior convictions for matters of dishonesty, some driving offences and a matter of common assault. I do not consider them to be of any significant weight in the sentencing process.

You are now 42 years of age. You live a predominately transient lifestyle living in a caravan and regularly moving around the North-West Coast. You have held a number of positions of casual employment and I am today informed that you have recently obtained further casual employment in vegetable harvesting. In respect to the two counts of dealing in firearms, I am told that your family have had a long interest in firearm ownership. You too have always had an interest in firearms. As a hobby you regularly draw firearms. You admits to manufacturing the homemade pistol and the other firearm parts. You say you did so for the purpose of personal possession and did not intend to sell or distribute them in any manner. You are, what is colloquially known as a "dooms day prepper". In anticipation of what you perceived to be impending conditions of calamity following the onset of the Covid 19 pandemic, you manufactured the firearm believing that you may need it to survive in the case of social collapse. I am told you were experiencing difficulties with your mental health at the time you made this decision. Many of the firearm parts that were in your possession had been inherited from your grandfather and I am told you had simply not turned your mind to the possibility that they were illegal.

As to the gel blaster firearm, I am told that you purchased it from an online seller. When you purchased it, you were told it was legal but I note that you made no independent enquiries to establish whether your possession of it within Tasmania was legal or otherwise. You purchased it for ornamental purposes and it has never been used. I am told it was in a display cabinet in your residence when it was found by police. Again there is no evidence that the gel blaster was purchased with an intention, or had in any way been used, for illegal or criminal activity. But of course one of the reasons why such firearms are illegal in Tasmania, is that they replicate real firearms which introduces the potential for them to be used in the course of criminal activity or to intimidate innocent members of the community, if they fall into the wrong hands. I have been shown a photograph of the gel blaster firearm. One could readily imagine it could be used for sinister purposes if, indeed, it fell into the wrong hands.

These offences were committed over two years ago. Since that time you have sought medical assistance in respect to your mental health difficulties. You are now appropriately medicated for anxiety. This has also assisted you in ceasing your use of illicit substances. You have had some long term difficulties with the use of illicit substances. There was an interplay between your use of these substances and your mental health difficulties. You have now not used illicit substances for a number of months and you are continuing to work towards maintaining your abstinence. There has been no further offending since the commission of these crimes. I had you assessed as to your suitability for a community correction order. I take into account the contents of the report generally. It indicates that in respect to past community correction orders you have been willing to engage with both mental health providers and alcohol and drug services.

In sentencing for any firearm offences general deterrence is an important sentencing consideration. Parliament has put in place a strict regime in respect to the possession and use of firearms. Its purpose is directed at providing community protection through the licencing and regulation of firearms and to endeavour to ensure that only responsible persons with appropriate licences have access to firearms. Care must be taken to ensure that firearms and ammunition do not fall into the wrong hands, and that the regulatory regime is strictly adhered

too. For the crimes of dealing in firearms and possession of a prohibited firearm, gaol sentences would often be imposed. Community safety is paramount and general and personal deterrence are important considerations. Having said that, here the crimes of dealing in firearms fall, in my view, towards the lower end of the scale of seriousness. It was one homemade single shot pistol. The firearm parts included metal parts that had been shaped like a hand gun but I was given no information to suggest that the balance of the firearm parts found were such that they were capable of being assembled in a manner that would create a working firearm.

Given the conduct that was associated with the dealing with firearms charges, the nature of the firearm associated with the possess prohibited firearm charge, the defendant's personal circumstances including his lack of relevant prior convictions, and the progress he seems to have made over the past several months, I am satisfied a period of imprisonment is not required. In my view, all sentencing aims can be met by the imposition of a community corrections order. I make the following orders:

- 1 Mr Etherton, you are convicted of all matters to which you have pleaded guilty.
- 2 On counts 7 and 9 on complaint 52830/2020 and complaint 53256/2020 there will be no further order.
- 3 In respect to the crimes on the indictment and the balance summary offences I will impose one sentence. I impose a community correction order for a period of two years from today. The core conditions of that order will be specified in a written document that will be provided to you. They include conditions that you will not commit an offence punishable by imprisonment, and that you must report to Community Corrections, Reece House Burnie, by 5pm tomorrow and comply with the directions of a probation officer, additionally, you must not leave Tasmania without permission and you must notify your probation officer of any change of address or contact details.

I impose the following special conditions:

- 1 You must during the two year period submit to the supervision of a probation officer as required by the probation officer
- 2 You must attend educational and other programs as directed by your probation officer.
- 3 You must undergo assessment and treatment for drug dependency as directed by a probation officer. You must attend participate in and complete the EQUIPS addiction program if directed to do so by your probation officer.
- 4 You must submit to medical or psychological or psychiatric assessment or treatment or psychological counselling, or indeed all of those, if directed to do so by your probation officer.
- 5 You must complete 90 hours of community service within that two year period.

If you breach any of the conditions you may be brought back to the Court and resentenced. I make orders pursuant to the *Crime (Confiscation of Profits) Act* that the homemade firearm and firearm parts, the gel blaster imitation H K self-loading/select fire submachine gun and all items referred to in paragraph 9 of the Crown Statement of Facts be forfeited to the State of Tasmania. I am satisfied they are tainted property. The homemade firearm is assessed as having a value of \$50, and the firearm parts assessed as having a value of \$20. The gel blaster firearm is assessed as having a value of \$50. The items listed at paragraph 9 of the Crown Statement of Facts are assessed as having the following values: grinder \$100, drill press \$100, welder \$350. I make an order pursuant to the Firearms Act that the quantity of ammunition seized by police be forfeited to the State of Tasmania.