

STATE OF TASMANIA v LIAM GEORGE GITTUS
COMMENTS ON PASSING SENTENCE

5 JULY 2022
ESTCOURT J

The defendant Liam George Gittus has pleaded guilty to one count of recklessly discharging a firearm contrary to s 239B of the *Criminal Code Act* 1924 and to three summary offences arising out of the same facts, namely discharging a firearm within 250 metres of a dwelling house contrary to Section 113(2) of the *Firearms Act* 1996, possessing a loaded firearm in public when not the holder of a firearm licence contrary to s 112(2) of that Act and possessing a shortened firearm contrary to s 116 (b) of that Act.

On Saturday 16 January 2022 at 6:00pm or thereabouts the defendant was at the foreshore adjacent to the Old Beach Jetty, at Old Beach. This area of land is in the suburb of Old Beach and is within 250 metres of multiple residential dwellings. The defendant took possession of a shortened .22 calibre single shot rifle which did not belong to him, in his left hand while filming himself with his right hand on his mobile phone.

He first filmed a view of his face, then a view of the direction he was facing towards the Derwent River, then a view of his arm with the rifle raised in his left hand, firing a shot into the nearby water. He did not subsequently retain possession of the firearm. He captioned the video "I have escaped iso and I'm fuming"

The State assert that the defendant's deliberate firing of the rifle was without due regard to the safety of persons or property and in doing so a reasonable person would regard his actions as posing an undue risk of harm to the public. The defendant fired the rifle in an area which is a foreshore frequented by the public and he could not discount the possibility of a person or persons being nearby when he fired the shot, and, contrary to a bold observation I made during the sentencing hearing, depending on the angle and depth of the water it could have ricocheted, although if it did it would most likely be across the wide expanse of empty water beyond the shore, like a skipping stone.

Firearm offences are always considered serious by the courts and by the community, some so serious that they warrant lengthy periods of imprisonment. This case however should be considered as being at the lower end of the range of seriousness. The firearm was not the defendant's property and his possession of it was fleeting. Only a single shot was fired and it was fired into a very large, open and empty expanse of water.

The defendant is still a young man, he is employed, he has been previously of very good character and has no prior convictions beyond a handful of traffic matters. He is engaged in the community. He has excellent character references, albeit one is from his father, who is also his employer. He is remorseful, he co-operated with police and pleaded guilty at a very early stage. He was held in custody at the time of arrest for over 24 hours and I accept that he has learned a lesson from that and from his engagement with the court process.

The defendant is convicted of each of the four offences to which he has pleaded guilty and I impose a single sentence. The defendant is fined the sum of \$2000.00 which is

payable within 28 days, subject to any arrangements the defendant may make with the Monetary Penalties Enforcement Unit.