

Jake Aaron Deacon, you have pleaded guilty five charges under the *Firearms Act* 1996. Police officers searched your home on 28 September 2018 and they found seven items known as gel blasters. Five of them are the subject of the five charges to which you have pleaded guilty. You have pleaded guilty to three charges of possessing a prohibited firearm when not the holder of a firearm licence of the appropriate category, and to two charges of possessing a prohibited firearm for which a firearm licence may not be issued.

You had a firearms licence prior to the day in question. You had obtained it in May 2014 but it had been suspended. The *Firearms Act* lists various categories of items that it calls "prohibited firearms", but a closer reading of the *Firearms Act* reveals that some categories of those things are prohibited in the sense that no-one can get a licence that would authorise the holder of the licence to have them. Others are not truly prohibited because people can apply for and get licences that allow them to have those things. There are two separate charges that can be brought under various provisions in s 9(1A) of the Act. There is one charge for prohibited firearms that are literally prohibited and there is another charge for so-called prohibited firearms that are not literally prohibited. So you have pleaded guilty to three charges of one type and two charges of the other type.

The *Firearms Act* contains a definition of "firearm". It defines "firearm", in paragraph (e) of the definition, as including "an imitation firearm, other than a toy". That has led to uncertainty in the past as to the distinction between toys that look like firearms and imitation firearms that are not toys. The gel blasters that are the subject of these charges, are imitation firearms. One could easily think of them as toys. They are marketed as toys. They are freely available on-line. They are freely available in some Australian States, but possibly not Tasmania. They do not fire bullets. They fire projectiles. The projectiles are pellets which are marketed in a dehydrated form. They are very small, about the size of hundreds and thousands, the confectionary product. When water is added they become projectiles that are spherical and something like 5mm in diameter.

The gel blasters that are the subject of the charges look like machine guns and automatic pistols. In the wrong hands they could be used in robberies. They could be used to create fear on the part of robbery victims. They could cause extreme psychological consequences. They look like the real thing. They would be as dangerous as unloaded automatic weapons. Like many things that are available as toys, these things would be capable of causing eye injuries if a series of pellets were fired towards a person's eyes. It is because of those features of these gel blasters, no doubt, that some are illegal and some may only be possessed by people who have got appropriate firearms licences.

When I looked at your prior convictions I saw that you appeared to be on bail in relation to earlier firearms charges at the time of the police search when these things were found. My immediate reaction was to think that this could be a serious case of somebody re-offending whilst on bail, but your counsel has told me that you had these things at the times of previous police searches in January and May 2018 and the police did not seize them. That would tend to suggest that there was uncertainty at the times of the earlier searches as to whether your possession of these things was against the law. The police came back a third time, seized them, and charged you with the matters that now bring you before the Court almost four years after the search. No doubt this case was delayed by the COVID pandemic. You have pleaded guilty

at quite a late stage but you have pleaded guilty after becoming aware of the way the mechanisms of some of these things work. Your pleas of guilty have avoided the need for a trial at which a number of police officers would have had to give evidence about your possession of these things and the features of the items that make them prohibited firearms of the various categories.

There is no suggestion that you had these for dishonest purposes. You bought them believing them to be toys. You and your family played with them, firing at targets and sometimes each other. You have had a drug problem. When I saw that you had a conviction for trafficking for an offence committed in 2019 I wondered whether this was a serious case. When trafficking and firearms go together, that can be a very worrying combination, but your record of prior convictions indicates that you have stayed out of trouble since April 2019. That is more than three years ago. Your counsel has told me that you no longer have anything to do with the people with whom you were getting into trouble, that you have overcome a drug abuse problem, and that you are now leading a different life from the life you were leading a few years ago when you resorted to the use of drugs. You have got a good employment and industrial record. You have got the support of your family. You are a family man with three young children. You are a full-time carer for your father who needs you.

I was wondering whether, this being your third firearms offence, I should make an order requiring some community service, but I have been told that following a fall from a great height 14 years ago, you have got all sorts of physical problems. Having regard to that and having regard to all the other things that are to be taken into account in your favour, I think the only appropriate penalty is a fine.

I convict you and order you to pay a fine of \$500 within 28 days. I order that the items numbered 13, 14, 16, 18, 21, 28 and 29 on the property seizure record in the Crown papers be forfeited to the State of Tasmania.