

Rodney Gene Crosswell, you have pleaded guilty to one count of assaulting a police officer, contrary to s114 of the Criminal Code, one count of stealing relating to a motor vehicle, one count of unlawfully setting fire to property involving the same motor vehicle, one count of armed robbery committed while armed with a sawn-off rifle, and robbing an amount of almost \$2,000. During the course of the armed robbery you committed the crime of aggravated assault. The particulars of the aggravated assault involve pushing a firearm into the complainant's back and pointing it at her face. The crimes were all committed on 13 May 2010. Over the following three days you committed the crime of perverting justice.

The background to the incident of assaulting a police officer is as follows. During the night of 12 May 2010, you committed various crimes and the police became involved in attempts to apprehend you. In the early hours of 13 May 2010, police identified you driving a stolen motor vehicle. A police pursuit was terminated due to your dangerous driving. Later, that motor vehicle was abandoned and you were a passenger in a motor vehicle, a Honda Coupe, that was driven in a dangerous manner. Police became involved in a pursuit of that vehicle. You were seated in the front passenger seat and you assisted in evading police by throwing items from the vehicle.

At about 2.45am on 13 May, the vehicle you were in travelled north along the Brooker Highway. Meanwhile, Constables Holly Dillon and Teresa Grieve were assisting in police efforts to apprehend you. They were setting about the task of deploying road spikes at the intersection of the Brooker Highway and Risdon Road. Constable Teresa Grieve stayed with the police vehicle which was positioned at a traffic island on the Brooker Highway. Constable Dillon saw the Honda approaching the intersection at speed. It swerved towards the slip lane as if to turn left into Risdon Road. She moved to place the spikes in that lane. The Honda swerved back into the middle lane of the Brooker Highway and Constable Dillon began to move the spikes into the north-bound lane. As she did so, you lent out of the passenger window with a sawn-off single barrelled shot gun in your hands and pointed it in her direction, shouting at her. Constable Dillon was in uniform and you knew she was a police officer. Constable Dillon did not realise that you had a firearm and she kept on laying out the spikes. You then discharged the firearm in her direction. Fortunately she was not shot. You did not intend to shoot her. Your intention was to scare her, and to get her to move further away. To use a firearm as you did for that purpose is a serious matter. There was a very real chance she could have been killed or seriously injured. You discharged the shotgun in her direction from a fast moving vehicle, and when you were within ten metres of her. Your conduct was reckless in the extreme. It is noted that you could have simply travelled on past Constable Dillon.

The vehicle you were in swerved over to the wrong side of the Brooker Highway and accelerated as it travelled north in a south-bound lane. There were other vehicles in the vicinity at the time of the incident.

You and the other two occupants of the vehicle went to a house in Lutana, where the car was left, and so was the shot gun. The shot gun was later hidden by one of the occupants of that house. It was discovered by police about two months later. It was capable of being fired with one hand; a fired cartridge case was stuck in the breech.

You left the house at Lutana, and some time over the next four hours, you stole a motor vehicle from a street in Mornington. You and another male then drove to the Claremont News Agency for the purpose of committing an armed robbery. You left your co-offender in

the car park in the stolen vehicle and you entered the news agency. You had with you a sawn-off rifle with electrical tape wrapped around the butt of the rifle. You had a balaclava or similar face covering, and a shopping bag to put the money in.

Inside the news agency were the owner, Mr Datta, and a customer, Mrs Shaw. Mr Datta was behind the counter serving Mrs Shaw, who was buying a lottery ticket and a newspaper. You approached the complainants, and yelled words to the effect of, "Get behind the counter, this is a robbery. Give me the money." You pushed the firearm into Mrs Shaw's back whilst saying, "Get around the back. I told you, get around the back." When she was behind the counter you grabbed her arm and moved her to a position to the end of the counter area. You then pointed the firearm at Mr Datta and demanded he open the till. The till was unlocked and you began taking money from the cash drawers and putting it into the shopping bag. As you were doing so, you demanded to know where the safe was, saying you wanted the "big money". Mr Datta told you he did not have a safe. You became angry and grabbed a till from one of the drawers and threw it to the ground. You then pointed the firearm at the face of Mrs Shaw. You were less than one metre from her. She could clearly see the barrel of the firearm. You said to both Mrs Shaw and Mr Datta, "Don't fucking mess with me, show me where the fucking safe is or I'll fucking shoot you." Both Mrs Shaw and Mr Datta feared for their lives. Mr Datta took you to a storeroom at the back of the shop. You forced Mrs Shaw to accompany you and continued your threats by pointing the firearm at both complainants.

As the storeroom was entered, Mr Datta tried to escape by opening a door. You tried to stop Mr Datta and, as you were getting past Mrs Shaw, you punched her to the left side of her body. You grabbed Mr Datta and said, "Get away from the fucking door." However, Mr Datta managed to escape through the door, and Mrs Shaw followed. You ran to the waiting stolen vehicle which sped away. Mrs Shaw recorded the registration number and immediately called the police. You stole a total amount of \$1,970 in notes and coins.

It is not known whether the firearm you used was loaded or not. Regardless, your victims thought it was and you behaved as if it was.

In assessing your criminality in relation to the crimes of armed robbery and aggravated assault, it is noted that this was not a fleeting incident of confrontation, and your conduct was desperate and menacing. By your threats with the firearm, aggression, verbal abuse and actual violence, you maintained control over your victims and held them in a state of fear.

You travelled to Rosetta where you and your co-offender set fire to the stolen vehicle and it was totally destroyed.

I turn now to the facts relating to perverting justice. After the armed robbery you travelled to Eastlands and purchased new clothes. The clothes worn during the robbery were burnt in your co-offender's backyard at his residence in Gagebrook. Police spoke to you about the shooting and you denied any involvement, providing a false alibi stating that you had been with your mate, Jye Lowry during the night and that you were still with him.

Police then spoke to Jye Lowry who confirmed that you had been with him on the night of 12 May. Later, he swore a statutory declaration to the same effect.

You remained at large for the next three days. It became evident to police that it was likely you were involved. A concerted effort was made to locate you, and extensive police resources were used. It was not until the afternoon of 15 May that you were sighted driving a motor vehicle. You crashed that vehicle and abandoned it. Police found a sawn-off rifle in

the console of the vehicle. This rifle had been used in the armed robbery. There was ammunition in the firearm. The firearm was capable of being fired with one hand. I note that you have already been sentenced in relation to your possession of that loaded firearm with respect to 15 May 2010.

You were arrested by police on 15 May 2010. Police found you hiding in a house in Glenorchy. You were agitated and uncooperative. After your arrest, and when you were being placed in the cells, you said to one of the officers, "As soon as I get out of here, one of you... is going to die. I'll shoot ya dogs one day.", and, "That slut should have died."

When interviewed by police you denied any involvement in the crimes of assaulting police and armed robbery, and you maintained your false alibi that you had been with Jye Lowry on the night they were committed.

You were remanded in custody and your telephone calls monitored. In telephone calls you revealed your involvement. In one of those calls on 22 July 2010, you told your girlfriend, "worst comes to worst, I'll go to Court, code assault. Last time I pulled a gun on a cop I got 12 months that was in the Midcity and I put it under his chin." This telephone call reveals that at that time you lacked remorse for your conduct of assaulting a police officer.

You are 27 years of age and you have an extensive record of previous criminal conduct. You have been sentenced as a youth and been convicted as an adult for assaulting a police officer, threatening police and escape. You have two convictions as an adult for assault involving police. In 2003 you were sentenced in the Supreme Court for the crime of assaulting a police officer when you produced a firearm and threatened to shoot the officer. You received a sentence of two years' imprisonment. In 2010 you were convicted of aggravated assault involving a threat by you to shoot a police officer during an arrest. The police officer believed you had a gun, although that was not the case.

You have a very large number of prior convictions for dishonesty, including burglary, stealing and over 30 for aggravated burglary. You also have a significant number for motor vehicle stealing.

Less than two months before committing these crimes, you had appeared in court to be sentenced for many crimes of dishonesty, and you received a Drug Treatment Order. The effect of the order was that a 12 months' gaol sentence was wholly suspended on a range of conditions, including that you comply with drug treatment and that you not reoffend. You were subject to that order at the time you committed the crimes before the Court today. In fact, you had breached that order by committing other offences in the period from 20 April through to 15 May. In August this year you were sentenced to a term of imprisonment of 21 months in lieu of the Drug Treatment Order, and the spate of offending I have mentioned committed while you were subject to that Drug Treatment Order.

Your criminal history reveals that the crime of assaulting a police officer is not an uncharacteristic aberration. It also reveals an attitude of contempt of the law. As a consequence, considerations of retribution, deterrence, and the protection of society are more prominent in the sentencing process than would otherwise be the case. Of course, your criminal history cannot be given such weight as to lead to the imposition of a sentence which is disproportionate to the gravity of your criminal conduct.

I have been provided with victim impact statements. The victims of your criminal conduct were subjected to a terrifying ordeal. In the case of Constable Dillon she did not realise until

after you drove past that you had pointed a firearm in her direction and discharged it. The awareness of what you did, the danger she had been exposed to, and the knowledge that she could have been killed have affected her emotionally and psychologically to a substantial degree, as would be expected. She does not work shift any more. She works in an office rather than out in the field. Since the incident she has suffered nightmares, sleeplessness and anxiety. She experiences flashbacks and moments when panic overwhelms her. She has consulted a general practitioner and a psychologist to assist in managing her symptoms. When wearing her police uniform in public she feels vulnerable, like a target.

The victims of the armed robbery were terrorised by your conduct. Mrs Shaw, whom you assaulted, spoke in her victim impact statement of a genuine fear of death. Mrs Shaw is now fearful for herself and her children. She is hyper vigilant. She has had regular consultations with a psychologist and been prescribed anti-depressant medication.

Mr Datta was very stressed by the robbery. It caused him to consider selling his business.

While it is not known how the victims may fare in the long term, people who have been subjected to these kinds of situations often experience lasting symptoms.

I take into account your personal circumstances. You have a long standing drug addiction. You have struggled with it. Closely linked to your addiction and the difficulties you have in addressing it, is a history of abuse while you were in State care as a young person. At the time you committed these crimes you had been assessed as suitable for a Drug Treatment Order. That Order would have been made because of recommendations of drug treatment professionals, and an assessment that you had prospects of successfully overcoming your addiction. After the Drug Treatment Order was imposed in March of this year, you lapsed and resorted to drugs. I note that relapse coincided with a consultation that raised matters regarding your past experiences in State care. The relapse led to a spate of offending and these crimes.

Mr Crosswell, your own suffering as a victim of crime cannot in some way mitigate the seriousness of your crimes. You have choices and one of the choices you have is whether you inflict trauma and harm upon innocent people. I also take into account your plea of guilty which has saved the victims the stress of giving evidence and the State the expense of a trial. I accept that you are genuinely remorseful for the trauma you have caused the victims. You intend to make monetary reparation to the victims. You have insight in relation to the matters you need to address in order to reform. You are motivated to address them. You have expressed a strong desire to change and lead a decent life. I give weight to these matters, but I must also give weight to sentencing goals of general deterrence and denunciation.

The crimes require a heavy sentence. Armed robbery is a serious crime and this is a serious example of it. The crime involving discharging a firearm in the direction of a police officer requires a sentence that makes it clear that such assaults upon police officers carrying out their duty to keep our community safe are unacceptable and cannot be tolerated. The courts recognise that the community is dependant to a significant extent upon the courage of police officers for our safety and personal protection, as well as security of property (*Re A-G's Application (No 2 of 2002)* (2002) 137 A Crim R 196, per Spigelman CJ at par22). When police officers carrying out their duties are subjected to violence, threatened, or placed at personal risk, sentences should be imposed which will operate as a deterrent to others (*Attorney-General (Tas) v Knight* [2003] TASSC 77).

You will receive a global sentence of imprisonment, but I will explain the breakdown of it in relation to the various crimes. The sentences have been reduced because of the total and cumulative effect of the sentences and to ensure the overall sentence is not crushing. If I was dealing with these crimes or incidents in isolation, longer sentences would have been imposed.

The sentence I impose will be cumulative upon the sentence you are currently serving. In this regard I note that you will not lose your entitlement to parole in relation to that sentence, s71(5), *Corrections Act* 1997. I have had regard to the total effect of the sentences combined to ensure that the aggregate sentence does not exceed the overall criminality involved in all of these crimes.

In relation to the crime of assaulting a police officer, I consider that a sentence of three and a half years is appropriate. For the crimes of aggravated assault and armed robbery, seven years is required. That is a total ten and a half years.

For the crimes of stealing a motor vehicle, setting fire to property and perverting justice, I would impose a sentence of eight months, but, in all the circumstances, noting the sentence you are serving for crimes committed in the same period, and noting the principle of totality that I have referred to, I would impose that sentence concurrently with the sentence you are serving.

I accept that you are someone who has made genuine efforts to deal with your drug addiction in the past. I accept too, that if you receive appropriate support regarding that addiction and your related personal history, then there are prospects you can rehabilitate. You are still a relatively young man. You have not received a long sentence such as this previously.

I record convictions. I impose a sentence of ten and a half years' imprisonment, cumulative to the sentence you are serving. You will not be eligible for parole for a period of six and a half years.

I impose victims of crime compensation levies of \$300, payable within 28 days of your release.

A compensation order is made pursuant to s68 of the *Sentencing Act* 1997, in the sum of \$1,970 to Allianz Australia Ltd. An order in favour of Josh Heron is made with the terms adjourned sine die for assessment.