

Ramon Williams, you plead guilty to possessing a firearm and firearm part while subject to a firearm prohibition order contrary to the *Criminal Code*, s 239C. I also agreed to deal with your plea of guilty to the summary charges of possessing a firearm for which a firearm licence may not be issued, possessing a silencer, possessing ammunition without a licence, cultivating cannabis, possessing cannabis, possessing methylamphetamine, possessing a cannabis smoking device, and using methylamphetamine. Although you pleaded guilty to the charge concerning the firearm prohibition order you disputed having possession of one of the firearms particularised in the indictment. I heard evidence in order to resolve that dispute. Facts adverse to you must be proved to my satisfaction beyond reasonable doubt.

On 19 June 2015 you were served with a firearms prohibition order made on 12 May 2015. Firearms prohibition orders are made if the Commissioner of Police forms the opinion that a person is unfit, in the public interest, to possess or use a firearm. The order prohibited you from possessing or using a firearm. I infer from your record of prior convictions that the order was made because in early 2015 you committed a number of firearm offences in the context of also having committed family violence offences.

The charges you now face originate from a search conducted on 11 February 2021 of the home in Thomas Brown Court on Cape Barren Island in which you then lived with your partner Shari Longey, the two children you had together and her daughter. You had been in a relationship with Ms Longey for about five years. You had been living on the island for a year or so and for about six months in that house. At the time Ms Longey's younger half-sister, Peta von Stieglitz, also lived in the same house.

During the search the police found three cannabis plants growing in different stages of maturity in cut down drums. In a toolbox in a locked shed there were two rifle barrels, a homemade pistol, a homemade silencer, seven pieces of rifle barrel, some ammunition of various types, two rifle bolts, two rifle magazines and a smoking device. You admit having been in possession of those items. The homemade pistol is a firearm in the usual sense. It was very crudely made but it was in going order and capable of firing a .22 cartridge. The barrels, rifle bolts, magazines and pieces of a barrel are all firearm parts. The police also found a two gel blasters in a child's bedroom. One was an imitation of a 5.56 mm M4 select fire rifle. The other was an imitation 9mm Glock pistol. Both were capable of firing only spherical gel projectiles by means of compressed air but are firearms within the statutory meaning of that term. The M4 gel blaster, when in semi-automatic or automatic mode, is capable of propelling projectiles in rapid succession during one pressure of the trigger and is thus also a prohibited firearm. No licence could have been issued for either gel blaster. You did not know that possession of them was illegal. They had been given to your sons and were kept at your house. It is not suggested that you had them for any improper purpose but in the wrong hands such items can be used to commit crimes because they look so much like the real thing. No doubt they could cause injury if used in an unsafe way. You were arrested on the following day in possession of a small bag of methylamphetamine, a bag of tobacco and cannabis mix and a glass smoking pipe. None of those facts are in dispute.

The dispute concerns another firearm found during the search; a self-loading .22 Sportomatic rifle fitted with a scope. The serial number of the rifle had been ground away. You denied any knowledge of that firearm and claimed that it was not in your possession. To resolve the

dispute I heard evidence from Constable Ryan Jeffrey, one of the two police officers who conducted the search, and I viewed the footage from his body worn camera. I heard evidence from Ms Longey. I viewed the audio visual recording of an interview with you conducted by police officers in Launceston on 12 February 2021. You also gave evidence.

Ms Longey was at the house when the police arrived with the search warrant. Her sister was also there. Very soon after Constable Jeffrey had explained that the police were looking for firearms or firearms parts Ms Longey was asked, in effect, whether there was anything that she would like to point out. She directed him to the main bedroom and to the built in wardrobe in that room. The rifle was found on a high shelf in the half of the wardrobe in which your clothes were stored. It was not in clear sight but was not really hidden. She said that the rifle was yours and that it was one of two you owned, although there was no other rifle found at the house or anywhere else. Either on the same shelf or the shelf below was a small container of .22 cartridges. Ms Longey told Constable Jeffrey that she had put the rifle in that place after you had rung her and asked her to move it from where it had been left under the couch. The other police officer examined the rifle and found that it was loaded. There were about eight cartridges either in the chamber or magazine.

At the time of the search you were not on Cape Barren Island. For a couple of weeks before the search you had been on mainland northern Tasmania. For some of that time Ms Longey had also been in northern Tasmania but she returned to Cape Barren before you. You intended to return to the island on 12 February 2021 and you were in the course of doing so when you were arrested at the airport in Launceston at 9.40 am on that day. There could be no doubt however, that despite your absence you remained in occupation of the house on Cape Barren. When interviewed you claimed that the .22 rifle was not yours, that it was not in your home when you left a couple of weeks earlier and you had not seen it before. You admitted that on other occasions you had been shooting with a friend while on the island. In evidence you repeated your denial that the gun was yours and contradicted Ms Longey's evidence that you had phoned her about it. You again agreed that you had been shooting but said that you had used a gun belonging to your friend, not the one found at your home. You declined to name the friend.

In the normal course I could not find against you on this issue unless I excluded, as a reasonable possibility, the scenario that the rifle was put into the wardrobe in your bedroom by someone else without your knowledge. In my view it is not reasonably possible that the rifle was put there by someone other than you or Ms Longey. It was not suggested that Ms von Stieglitz could have had anything to do with it. There is no sensible reason that anyone else would put a gun which did not belong to you in the place in which it was found. Ms Longey could not be mistaken in what she said to the police. She knew about the rifle. She said that you asked her to put it there and took the police straight to it. In my view the only plausible scenario consistent with your innocence is that the rifle was put there by Ms Longey intending to incriminate you and that she lied to the police and to this Court. The requirement for proof beyond reasonable doubt of facts adverse to you is affected by the terms of s 239E of the Code. It provides that a firearm is taken to be in the possession of a person so long as it is found on premises occupied by the person. The provisions of the Code are to be distinguished from the terms of the *Firearms Act* which creates an equivalent presumption for proceedings under that Act but which goes on to provide that the presumption may be displaced if the court is satisfied that the person did not know, and could not reasonably be expected to have known, that the firearm was in or on the premises. That gives rise to the question of why the two provisions are different and whether the Code presumption may be

rebutted by evidence, but in light of the conclusion I have reached it matters not. I do not consider that there is even a reasonable possibility that the firearm was not yours and was not knowingly in your possession, still less that this was a likely scenario.

It was suggested on your behalf that I should, in light of your sworn evidence, doubt Ms Longey's account. In her evidence she initially said that the communication from you asking her to move the rifle was in the form of a text message. She told the police you had phoned her. Moreover, the relationship between you was difficult and had been so for some time. On the day the rifle was found she also made allegations that you had been violent towards her, and was seeking assistance from a nurse and from the police to leave the relationship. Plans were made, she said that day, for her to leave the island. That gives rise to the possibility that she lied about the rifle hoping to make things worse for you. There is no other evidence of the telephone call or message. There is no forensic link between you and the rifle.

Ms Longey was clearly a reluctant witness. Her manner when giving evidence was vague and defensive. She said in evidence that she could not remember what she said to the police during the search or about having moved the firearm. She could not remember the phone call she told the police about and, when pressed could not remember a message. She said that her lack of memory resulted from PTSD. However despite the limitations of her evidence, and the inconsistency identified concerning a phone communication, my impression of her on camera during the search was that she was telling the truth to the police. What she said made sense. The chance that she deliberately planted a rifle is made less likely in my view because a plan to incriminate you must also have involved planting the ammunition which was found near it. It makes no sense that the ammunition would have been there without the rifle. It is not inherently unlikely that you would have possession of a rifle because you admit possession of the pistol and other ammunition and admit that you had been shooting on other occasions. A plan to incriminate you would involve placing a rifle she either got from somewhere else, or owned herself, in that position knowing the police were likely to find it. Although there is evidence of other interaction between Ms Longey and the police on that day there is no evidence that Ms Longey knew that the police were coming to look for firearms or intended to execute a search warrant, or that she requested them to undertake such a search and made up a story knowing they were coming.

You gave sworn evidence to the contrary. You made denials in your interview. However I do not believe you when you say that the gun was not yours and you did not know about it because the objective circumstances which might innocently explain the presence of the firearm in that location at that time are so implausible that they can be safely excluded as a reasonable possibility, still less as the most likely scenario. You admitted having used a firearm while the order was in force but the allegation in the indictment is that you used one of the specified firearms. I suspect that you did use the rifle which was found but I cannot be satisfied of that beyond reasonable doubt.

For those reasons I will sentence you on the basis that all of the firearms were in your possession contrary to the order, but not that you had used any firearm listed in the indictment.

Before referring to your personal circumstances there is another statutory anomaly I should mention. Under the *Firearms Act* it is not an offence to possess a firearm part while subject to a firearm prohibition order. The terms of the prohibition order do not prohibit possession of firearm parts. However the Code makes it a crime to possess a firearm part while subject to an

order and it is under that provision that you are being prosecuted. It is hard to see how you could have understood, even if you had read the order and studied the *Firearms Act*, that it prohibited possession of firearm parts. But you did not lawfully possess them in any event. The same does not of course apply to the pistol and the rifle.

You are now aged 32. You have four children and have regular contact with them. Your record for committing offences extends back to when you were about 20. At the time the firearm prohibition order was made in 2015 you were 24. At that time your record was not especially bad although you had convictions for some violence, family violence, drugs and dishonesty. You had been made subject to community based orders but had not been to prison. Things went downhill after that. In 2016 you were sentenced to terms of imprisonment, part of which was suspended, for a considerable number of offences including for dishonesty, drug related driving offences and the firearm offences which led to the making of the order. You were sentenced to imprisonment again in 2018 and again in 2021. You were serving a sentence which was imposed in July 2022. The recent sentences have been almost entirely for dishonesty and drug related driving offences. There has been no further firearm offending until these matters which of course happened about two years ago.

Much of your problems stem from the abuse of drugs. According to your counsel you have tried to stay away from drugs after you are released from prison. There have been times when you have been able to stay in employment and prior to your most recent arrest there was a period of abstinence. When you were arrested in March 2022 you were badly injured when you fell through a ceiling and were treated for serious skeletal injuries while in prison. You served a term of about eight months for multiple offences of dishonesty and drug driving all committed after the crime for which I am to sentence you. You were due to be released on 20 February 2023.

When the police, in your interview, asked you about the prohibition order you said you thought it would have expired. That may well have been an honest answer but at the very least you should have made sure that the order was not in place before you had anything to do with guns. There is no basis on which you could claim innocent possession of the real firearms or the firearm parts because you had no licence to possess any of them. You could not have got a licence especially for a pistol or self-loading rifle. I think your counsel is likely correct when she explained that there is a more lax attitude to guns on Cape Barren Island but that is not an excuse. Citizens everywhere have an obligation to comply with the law and with your experience of life you should have known better. However I am not satisfied that you possessed the rifle for any sinister purpose. I think that you had it for what you suggested to the police; that is, for hunting wallabies and the like on the island. Your disregard for the laws regulating firearms is demonstrated by all of the firearm charges including possession of the silencer. As for the pistol your assertion that you had it as some sort of curiosity was not challenged. But part of the reason for orders like this is to reduce the risk posed by use and possession of firearms by persons who are not fit to have them. The fact that you had a drug problem is obviously relevant to that risk. Orders must be taken seriously. Heavy penalties are provided for under the *Firearms Act* and the seriousness with which Parliament treats the matter is emphasised by the fact that possession and use of a firearm contrary to a prohibition order is a crime under the Code.

As to the gel blasters I am satisfied that you, as is very commonly the case, did not appreciate their status as firearms and they were for use by your sons as you claimed, and Ms Longey

agreed. The three cannabis plants you grew, and the cannabis mix and methylamphetamine in your possession are all consistent with personal use.

I take into account that because of the length of the sentence you have just completed no parole order was made. Rather than allow for parole for the sentence I am about to impose I think it preferable to suspend part of it and provide for supervision on your release. That is because I think that, with that assistance, there is still some chance that you can get your life back on track.

I make the following orders. I order that the firearms and firearm parts referred to in the miscellaneous property receipt dated 12 March 2021 are forfeited to the State. On complaint 34717/21, possessing the gel blasters, you are convicted and fined \$200. That amount is to be paid within 28 days of your release but you may apply to enter into a repayment arrangement. On complaint 31180/21, counts 8, 9, 10, 11 and 12, the drug offences, you are convicted on each count. On count 11 I make no further order. On the remaining counts on that complaint I impose one sentence. You are sentenced to imprisonment for one month from 20 February 2023. On the indictment and on complaint 31180/21 counts 4, 5 and 6, the remaining firearm charges, you are convicted on each count. On count 6 on that complaint I make no further order. On the indictment and the remaining counts on that complaint I impose one sentence. You are sentenced to a term of imprisonment of nine months cumulative to the term just imposed. I suspend five months of that term for two years from today. It is a condition of that order that you are not to commit another offence punishable by imprisonment during that period. That of course will apply while you are in custody. If you breach that condition you will be required to serve the suspended part of the term unless that is unjust. There will be other conditions which will be set out in the order you will be given but they include that you report to a probation officer at 111-113 Cameron Street, Launceston within three clear days of your release and that you submit to supervision and comply with the directions given by your probation officer while the order suspending the sentence is in force.

I impose special conditions that on your release and while the order is in force you submit to the supervision of a probation officer as required by that officer and attend educational and other programs, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer. If directed by a probation officer you must attend, participate in and complete the EQUIPS Addiction Program. If you breach any of those conditions you may be brought back to court and re-sentenced.

Mr Williams the effect of the order I have just made is that I have imposed a total term of 10 months from 20 February 2023. I have suspended half of that term for two years from today on the conditions I have explained.