

THE QUEEN v NICHOLAS RAYMOND WILLIAMS
COMMENTS ON PASSING SENTENCE

18 APRIL 2023
PEARCE J

Nicholas Williams, I am sentencing you on your plea of guilty to 33 offences. All arise from a police search of your home in George Town on 16 August 2022. With one exception, all of the offences could have been dealt with by a magistrate. The exception is the charge of possessing a prohibited firearm without being the holder of a firearms licence of the appropriate category. That is an indictable offence punishable under the *Criminal Code* even though it relates to a gel blaster, not a real firearm, and must be dealt with in this Court. As a result, I agreed to sentence you for all of the offences.

I will list the offences for which I am to sentence you in categories. All are single counts unless otherwise stated. You plead guilty to resist police and purchasing fireworks without a permit. There are a number of drug offences: selling a controlled drug, possessing a controlled drug, using a controlled drug, two counts of possessing a thing used for the administration of a controlled drug, possessing a controlled plant and using a controlled plant. The firearms offences in addition to the indictable charge are: 10 counts of possessing a firearm without a licence, possessing a shortened firearm, possessing ammunition without a licence, failing to take precautions to ensure the safekeeping of firearms and two counts of possessing a silencer. The remainder are dishonesty charges: unlawful possession of property and five counts of receiving stolen property.

During the search the police found property which had been stolen in recent aggravated burglaries of five different homes. The stolen property included tools, collectible items, musical instruments, electrical equipment and a wide range of other items. The total value was more than \$30,000. The police also found other property they correctly believed was stolen but could not identify from where it had been taken. It included knives, tools, a laptop, two mobile phones, a bicycle and watches and jewellery.

In your house the police found a small amount of cannabis in various forms and containers and a small cannabis plant. In the pocket of your pants were nine snap lock bags containing methylamphetamine and oxycodone. There were indications including in phone messages and tick lists that you had been selling methylamphetamine.

Some of the firearms were found inside your home. The gel blaster closely resembled an M4 select-fire rifle. There was also a 6.5 mm bolt action repeating rifle, a stock for a .22 rifle, a disassembled antique revolver and a 12 gauge double barrel shotgun. Of those, only the shotgun was in working order. Another six firearms and two silencers were found in your car. There were three .22 rifles, two 410 shotguns, one of which was shortened, and a homemade pistol. A considerable amount of ammunition of various kinds was found in the house and in the car. You have never held a firearm licence and none of the firearms were properly stored.

Finally, the fireworks were found in your bedroom. There were 110 packets, each of which contained many individual fireworks.

You are now aged 39. You have two children with your former partner. You held responsible employment as a manager at an engineering firm but when your relationship broke down in 2019 you found yourself without stable accommodation. Your mental health deteriorated and you were introduced to methylamphetamine. As so often happens your use of the drug escalated.

You lost your job and could not fund your habit. The deterioration in your circumstances is reflected in your record to which I will refer shortly. You lived in a house frequented by other drug users. The methylamphetamine you sold was amongst this cohort and you are not charged with trafficking. It became known that you would accept things for sale even if, as you admit here, you knew they were stolen or were associated with criminals. The firearms were given to you by criminal associates and you had not decided what to do with them. As the prosecutor correctly pointed out, unlicensed firearms are a common currency amongst criminals. It was not asserted that the firearms were stolen. If they were you would have been charged with a more serious offence. But it follows from your plea of guilty to receiving that you knew the other property you had was stolen and you had no lawful excuse for its possession. Receiving is serious because purchase of stolen goods encourages theft. For that reason it generally attracts a sentence of imprisonment. The total value of the items you had added up to a significant amount. No doubt they were worth more than that to the owners. Fortunately, they were recovered and all returned.

As to the gel blaster it was capable of firing only spherical gel projectiles by means of compressed air but was a firearm within the statutory meaning of that term. Because it was capable of propelling projectiles in rapid succession during one pressure of the trigger it is a prohibited firearm. I am informed that a form of firearm licence may authorise possession but you did not have any licence. It is not suggested that you had the gel blaster 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 it could cause injury if used in an unsafe way.

You have been in custody since 16 August 2022 but for part of the time since then you have been serving another sentence. You did not get into serious trouble until 2020 when you were sentenced to a partly suspended term of imprisonment accompanied by a community correction order. That was for firearm, bail and drug related driving offences committed from 2019 onwards. You breached that suspended sentence by continuing to commit offences of a similar nature and on 5 December 2022 you were sentenced to imprisonment for five months. No order was made on an application to breach the suspended part of the sentence, so you remain subject to that. You were due for release on 15 January 2023 but have been in custody on these matters since then. The sentence you have already served was for different offending, but committed during the same general period, so the sentence is relevant to totality. I am informed that you have remained sober while in prison and I think that the community will benefit if you are permitted the opportunity to get your life back on track without serving a further period of custody. I am satisfied that your abuse of illicit drugs is strongly connected to your offending and that addressing that problem is the key to your successful rehabilitation. That conclusion is reinforced by the report provided to me about your suitability for the making of a drug treatment order. Such an order is aimed at assisting you to break the cycle of drug related offending by focussing on your rehabilitation rather than punishment. You will understand that if you do not make the most of this opportunity further prison is virtually inevitable. I take the time you have spent in custody since 15 January into account in determining the length of the custodial part of the sentence.

The charge of possessing a firearm without a licence at count 14 on complaint 33590/22 concerns the shortened shotgun which is also the subject of count 23. I was asked by the prosecutor to subsume the former charge into the latter. They involve different elements and so I will not do so but I will do nothing other than record a conviction on the unlicensed possession charge. The charges of possessing smoking devices and purchasing fireworks without a permit, which are respectively counts 5, 8 and 12 on the same complaint are punishable only by fine. In light of

the other orders I will make the smoking device charges do not warrant additional punishment. The fireworks charge is punishable by a maximum fine up to 10 penalty units, or \$1730. The fireworks you had were small retail fireworks but you had a lot of them and no doubt they could have caused injury in the wrong hands.

Nicholas Williams, you are convicted on the indictment, on complaint 33590/22, counts 1-8 and 11-27 inclusive and on complaint 33591/22, counts 1 to 5 inclusive. I order under the *Firearms Act*, s 149(3) that the firearms and ammunition listed in the tables on page 30 of the sentencing papers are forfeited to the Crown. I order under the *Misuse of Drugs Act* 2001, s 38, that the smoking devices listed at items 1, 2, 4, 5 and 13 of drug exhibit sheet 271830 are forfeited to the Crown. On counts 5, 8 and 14 on complaint 33590/22 I make no further order. On count 12 on that complaint, the fireworks charge, you are fined \$300. You have 28 days to pay that amount unless you enter into a repayment arrangement. On the indictment, and on all remaining counts on both complaints I impose one sentence.

I make a drug treatment order pursuant to the *Sentencing Act* 1997, s 27B. The custodial part of the order is a term of imprisonment of 12 months. You are not required to serve all or any of the custodial part of the drug treatment order unless it is activated. It may be activated if you fail to comply with the treatment and supervision part of the order which has the following core conditions:

1. you must not, in Tasmania or elsewhere, commit another imprisonable offence;
2. you must attend the Magistrates Court of Tasmania, in Launceston at 2.15 pm on 9 May 2023 and thereafter attend the Magistrates Court or this Court as and when directed by the court;
3. you must report directly to a court diversion officer at Community Corrections, 111 Cameron Street, Launceston by 5.00 pm on 20 April 2023 and in any event within two clear working days of today;
4. you must undergo such treatment of your illicit drug use problem as directed by your case manager or court diversion officers or as from time to time specified by the Magistrates' Court or this Court;
5. you must report to, and accept visits from, your case manager or court diversion officers;
6. you must, unless there are special circumstances, give your case manager at least two clear working days' notice before any change of address;
7. you must not leave Tasmania except with the permission, granted either generally or in a particular case, of the Magistrates Court or this Court;
8. you must comply with all lawful directions of the Magistrates Court or this Court;
9. you must comply with all reasonable directions of your case manager and court diversion officers concerning the core conditions and program conditions of this order.

There will be further program conditions of the order that:

10. throughout the duration of the order you must reside at [address specified in order] and not be absent from that address between the hours of 10 pm and 7 am and present to a police officer, your court diversion officer or case manager if required to do so;
11. you must not use or possess any controlled substance within the meaning of that term in the *Misuse of Drugs Act* 2001;

12. you must not use any medication unless prescribed to you by a treating medical practitioner, approved by your court diversion officer and in accordance with the medication directions for use;
13. you must not consume alcohol;
14. you must submit to random testing for the presence of drugs or alcohol as directed by your case manager or court diversion officers;
15. you must submit to urinalysis as directed by your case manager or court diversion officers;
16. you must submit to oral fluid testing as directed by your case manager or court diversion officers;
17. you must submit to detoxification or other treatment, whether or not residential in nature, as directed by your case manager or court diversion officers;
18. you must not associate with persons or classes of persons as directed by your case manager or court diversion officer;
19. you must attend for assessment, and if deemed suitable, participate in and complete any vocational, educational, employment, rehabilitation or other programs, including the EQUIPS Addiction Program as directed by your case manager or court diversion officers;
20. you must attend counselling and/or treatment as directed by your case manager or court diversion officers;
21. you must submit to medical, psychiatric or psychological treatment as directed by your case manager or court diversion officers
22. you must maintain the use of, and remain contactable by, a mobile phone capable of sending and receiving messages about drug testing, case management and/or counselling appointments from your case manager and court diversion officers; and,
23. you must remain contactable at all times.