

Garry Sullivan was found guilty by a jury of aggravated carjacking, stealing and aggravated assault. He is also to be sentenced on his plea of guilty to dangerous driving and three counts of unlawfully damaging property. Subject to the verdicts it is for me to find facts for sentence. For the purpose of determining the factual issues between the State and the accused, I may only make findings adverse to him if satisfied beyond reasonable doubt that they have been proved.

Just after 6 am on Thursday, 12 April 2018 the defendant arrived at the home of Jason Keeling in Kingston. The defendant was with a female. The men had met only once before and the reasons for the defendant's visit do not emerge clearly from the evidence, except I am quite satisfied that it was not initiated by Mr Keeling. After an exchange between the three people, Mr Keeling agreed to give the defendant and his companion a lift to the nearby shopping centre. Mr Keeling drove his Commodore sedan and the defendant sat in the front passenger seat. On the way the defendant asked instead to be taken further, to a home in Bonnet Hill. Mr Keeling agreed, but when they arrived and before anyone got out of the car, the defendant aggressively demanded that Mr Keeling hand over his car keys. The defendant did so while holding a long spike or nail in his hand. I am not satisfied that he acted in company with the female. I am satisfied that the defendant held the spike as a means of threatening Mr Keeling with violence if he did not hand over the keys and the car as demanded. Because of his proximity to Mr Keeling he had the means to carry out his threat, and Mr Keeling was justifiably fearful that he may do so. Mr Keeling did as he was asked and got out of the car, at which time the defendant drove off. He drove to a petrol station in Sandy Bay where he stole about \$70 worth of petrol by having the female fill the tank before he left without paying.

The police had been alerted to what had happened and the defendant was quickly identified as the responsible person. The police kept a lookout for the car. A police officer spotted the car at about 8.45 am on Cambridge Road at Mornington. In attempting to avoid his apprehension the defendant drove into a property in Pass Road, through fences, across a paddock into another property before re-emerging onto Pass Road. In the course of doing so he caused considerable damage to Mr Keeling vehicle, to gates and fences and to objects belonging to the owners. On one property alone the damage cost more than \$8,000 to repair. Then, over the course of the next 20 minutes or so, the defendant drove the vehicle dangerously through the streets of Mornington and then Rokeby where he was eventually apprehended. By then, one of the rear panels was hanging off Mr Keeling's car. He drove onto the incorrect side of Cambridge Road, he failed to keep left and drove through a red traffic light at the intersection of South Arm Road and Tollard Drive. In Pass Road the front and rear driver's side tyres of the car were punctured by road spikes deployed by the police. The defendant drove on regardless thereby causing considerably more damage to the car and making it much harder to control. Before reaching Rokeby the car was spiked again. In Rokeby the defendant frequently drove onto the incorrect side of the road without maintaining proper control of the car he was driving, no doubt contributed to by the fact that by then he was driving on the rims. At the intersection of Hookey Street and Duntroon Drive in Rokeby he collided with a car being driven by Mrs Perry as she turned into the intersection. The force of the collision was sufficient to spin Mrs Perry's car 180 degrees. The defendant drove on regardless. He pulled into a driveway and ran off, leaving his female companion.

He was chased by two police officers. One was Sgt Bessell who caught up with the defendant as he was trying to climb a fence in the back yard of the house. The defendant turned and threw

a punch at Sgt Bessell's face but missed when Sgt Bessell moved out of the way. By attempting to apply force to Sgt Bessell to avoid apprehension, the defendant committed aggravated assault.

Mrs Perry's car was damaged in the collision. Her niece was a passenger. I have not been informed that either of them was injured so I will assume that they were not. No doubt the experience was frightening for them. Mr Keeling was also exposed to a frightening ordeal. I regard the threat to use the spike as a weapon as the most serious aspect of the crime of aggravated carjacking. The criminality involved is similar to that of an armed robbery. Mr Keeling was understandably terrified and traumatised. The defendant told the police that he just wanted to borrow Mr Keeling's car, use it to collect money owed to Mr Keeling and then give it back. I reject his account as irrational and implausible. I find he had no intention of giving the car back. I have no information of its worth but from the photographs it appears to be a modern, well cared for and valuable vehicle.

It is not asserted by the State that the defendant drove at particularly high speeds. Nevertheless, for a period of about 20 minutes he posed, by the manner of his driving, a real danger to other road users, the police and to his passenger. The potential for injury or death was considerable. It was a weekday and the driving took place on roads and at a time at which there was likely to be a considerable amount of other traffic. The dangerous driving is aggravated by the fact that the defendant was attempting to escape apprehension by the police.

The defendant is now 41. His pleas of guilty to some charges shortened the trial and indicated a willingness to facilitate justice, but came very late and do not provide any indication of remorse. He did not give up any chance of acquittal. He has been addicted to drugs for all of his adult life. He was affected by drugs when these crimes were committed, having been using methylamphetamine heavily. In my view, his use of drugs explains why he is unable to give a rational or coherent account of why he went to Mr Keeling's home and why he then acted as he did. His addiction is reflected in his long criminal record. He started offending when he was 17. Between then and 2007, when he was 30, he committed numerous offences including for dishonesty and violence. He served many terms of imprisonment. He has prior convictions for driving offences, including alcohol related offences, but none for dangerous driving. There is a gap in his Tasmanian record between 2007 and 2013, but on 5 May 2014 he was sentenced by Wood J to imprisonment for 5½ years for aggravated armed robbery of a hotel committed on 13 February 2013. The comments on passing sentence for that crime make clear why the gap in his Tasmanian record exists. In February 2008 he committed an armed robbery in New South Wales for which he was sentenced to imprisonment for five years. He returned to Tasmania in November 2012 in breach of parole and committed the robbery while he was still on parole. In 2014 Wood J ordered that the defendant be eligible for parole after having served three years of the term her Honour ordered. He became eligible to apply on 15 February 2016. He must have been granted parole because it was revoked on 16 December 2016 after he re-offended by receiving stolen property in September 2016, for which he was sentenced to a cumulative term of imprisonment for six months. He was released on parole again on 4 December 2017. These crimes were committed only a few months later. On 4 October 2018 he was sentenced by a magistrate to a further cumulative term of imprisonment of six months for offences committed while on parole in March 2018, including breaches of bail, motor vehicle stealing, stealing and aggravated burglary. They are not prior convictions for sentencing purposes but are relevant to issues of rehabilitation and parole. They are also relevant to totality. I am informed that he is eligible for release on 10 June 2019.

The result of what I have just described is that the defendant has been in prison for almost all of the last 11 years or so. However, in my view, little regard is to be paid to totality except for the March 2018 offences. All of his other offending is quite separate in time, and even the March 2018 offences involve separate criminality. His counsel correctly points out that there is a risk that he may be institutionalised. Whilst that is always regrettable it is, in this case, the inevitable result of his serious criminal conduct. Sentences of imprisonment have not deterred him. Whenever he is released he quickly re-offends in very serious ways, even when on parole. I accept that prison will have no rehabilitative effect except that he has managed so far to stop using drugs while in custody this time. In any event, I see little prospect of rehabilitation, although the defendant has resolved to isolate himself from bad influences on his release. While he is not to be punished for his record, the risk he poses to the community, and punishment for these crimes, are the dominant sentencing factors.

I will make compensation orders but there is little prospect that he will ever be able to pay for the damage he caused.

The dangerous driving, damage to property and stealing together justify a sentence of imprisonment for 18 months. The aggravated assault justifies a sentence of imprisonment for 3 months. The aggravated carjacking justifies a sentence of imprisonment for 2 years and 3 months. I will reduce the total sentence so it is a fair reflection of his overall criminality. I will make some allowance for eligibility for parole to enable his supervised release into the community, but because of his terrible parole record it will be only after having served a considerable part of the sentence. It will be up to the Parole Board to consider any application he might make.

Garry Sullivan, you are convicted on each count on the indictment. I make a compensation order in favour of Mark Brown in the sum of \$8,162.41 and order that you pay that sum within 28 days. I make a compensation order in favour of Deccan Enterprises Pty Ltd in the sum of \$71.28 and order that you pay that sum within 28 days. I make compensation orders in favour of Jason Keeling, Christine Rennie, and Veronica Perry and adjourn the further terms of those orders to a date to be fixed. You are disqualified from driving for four years from your release. Any driver licence you have is cancelled. I impose one sentence. You are sentenced to imprisonment for three years and six months cumulative to the sentence you are presently serving. I order that you not be eligible to apply for parole until you have served two years and six months of that term.