

STATE OF TASMANIA v GREGORY MAXWELL PICKEN
COMMENTS ON PASSING SENTENCE

16 JUNE 2023
ESTCOURT J

The defendant Gregory Maxwell Picken, aged 18 at the time of the offending has pleaded guilty to one count of aggravated burglary and one count of armed robbery.

On 11 January 2023 at around 3:50am, the complainant, Savanah Jane Boyd was home in bed asleep. Ms Boyd is legally blind and lives independently.

At around the same time, the defendant, was in Sandy Bay with a co-offender Jamie-Lee Burnett who was his girlfriend at the time. They had both been to the Casino for some hours, gambling.

The defendant and Ms Burnett walked up the driveway of the complainant's unit. The defendant entered the unit alone. He took the complainant's handbag and wallet from her lounge room.

He walked in to the complainant's bedroom and took a number of items of her jewellery. The complainant was woken up by the defendant, brandishing a large knife. He yelled at her, words to the effect *"where is your phone cunt"* before grabbing her phone from the bedside table.

The complainant asked why he was in her house. In reply, he threatened to stab her. The complainant turned the light on and tried to negotiate with the defendant for the return of her phone and jewellery. The defendant responded by threatening to stab her again. He also threatened to stab her if she didn't not give him the pass code to her phone.

The complainant got out of her bed. The defendant was continuing to threaten her as he was leaving, and left via the back door.

The complainant realised that along with her iPhone he had taken her wallet, which had cash in it and all of her personal cards and bank cards, a set of keys which had her house and office keys in it, her glasses, and her Apple air pods. He also took her handbag and her jewellery which included two sets of diamond earrings that had belonged to her grandmother and had sentimental value.

The complainant contacted police and the defendant was subsequently arrested after some of the property had been recovered and his identity became known.

These were horrible crimes and very serious ones at that. I have read a victim impact statement and I have had it read to me. At the time the complainant felt relatively fine about the incident, however that did not last. Since then she has not slept through the night, she wakes up a couple of times of a night in a state of panic and repeated dreams about the defendant standing at the end of her bed with a knife. Medication has had no effect. The complainant has now started the process of moving house in the hope that this will solve the problem. She has also suffered financially.

I make a compensation order in favour of the complainant in the amount to be assessed and adjourn the assessment sine die.

The defendant has no prior adult convictions. He has a history of youth offending that is primarily driving and dishonesty related. He has committed no offences of violence or assault since 2018. He has no prior history of stealing with force or of robbery and armed robbery. He has a number of prior convictions for burglary, and one prior conviction for aggravated burglary.

The defendant is the middle of three brothers. He has a close relationship with both brothers, who are 5 years older and 2 years younger. Both his parents are deceased.

Until the age of 11, he grew up with both parents and his brothers as a family. He describes a strong and close family unit and supportive early childhood. He describes that he was brought up with good morals, to have respect for others and to value family.

Sadly in 2015, his father was the victim of a one punch attack on the street outside the family home which resulted in his death. The defendant witnessed the attack on his father. He was aged 11 at the time.

Following this, his mother began to struggle with an addiction to methamphetamines and was not capable of caring for the children. This led to Child Safety making application for Care and Protection Orders for Mr Picken and his younger brother, and Child Safety remained his Guardian until he turned 18.

The defendant was placed in various out of home care placements, none of which were long lasting or stable. His most consistent accommodation was with his older brother and in his later teen years in a kinship care placement.

His schooling was interrupted by his traumatic and unstable life circumstances. He ceased attending school full time in Grade 5 and has poor literacy and numeracy. He continued education online and with a Back on Track program in his later teen years, and was referred to a Disability Employment Service for help with job seeking.

His mother died in January 2021 of a drug overdose. He had not had contact with her for approximately 12 months before her death. He is still grieving and processing the loss of his mother and instructs this has been a primary factor in relapses into heavy drug use.

Though only 18, the defendant has an extended history of drug use. He first used methamphetamine when he was aged 12 and in more recent years has had periods of both very heavy use and months of abstinence. His drug use was persistently a primary causal factor in his youth offending, in particular dishonesty offending to fund drug use.

He experienced a drug induced psychosis in April 2021, the symptoms of which lasted a number of months. Staff at Ashley Youth Detention Centre reported that psychosis was still present when he was discharged in June 2021 and he was subsequently was admitted to the psychiatric ward of the Royal Hobart Hospital. This prompted a period of reflection and abstinence.

The defendant became a father in April 2022, aged 17. This was an overwhelming and confronting experience, particularly without any parental support. He returned to heavy drug use and offending, before spending time in youth detention. Following this, he returned to live

with his brother and had a number of months of stability and abstinence from drugs.

In the months leading up to the current offences, the defendant was involved in a relationship with his co-offender, an older woman with her own entrenched history of drug addiction. Together the two incurred significant drug debts and began resorting to dishonesty offending.

The defendant describes at the time of the offence taking a new drug that was even more addictive and had an even worse impact on his behaviour and judgement than the methamphetamine that he was familiar with. He describes that he was in the worst drug effected state that he had ever been in.

He instructs that he entered the victim's address believing that no one was home and that he never would have entered if he knew the victim was home.

He recognises the seriousness of his conduct, describing it as being the worst thing he has ever done. He described himself as being disgusted at what he did. He acknowledges the impact on the victim in terms both the material loss and the psychological impact and instructs that he wishes he could communicate his remorse to her.

The defendant has been in custody at Risdon Prison for some months now, not an insignificant period for someone experiencing the adult prison system for the first time. I do note, however, that he is reported as having committed several prison offences.

He describes that his experience in custody to date has had a significant deterrent impact upon him. He describes Risdon Prison as being completely different to Ashley Youth Detention Centre, that he is constantly scared for his safety and that the experience has been a "huge wake up call."

In prison he has remained abstinent from drugs and has been prescribed anti-depressant and anti-psychotic medication that he is taking and feeling the benefit of. He has met with his NDIS team to discuss future planning for when he is released. He has enrolled in a literacy course and intends to register for other rehabilitative courses as they become available to him.

He has continued to have contact with his son and the mother of his son. He has a positive friendship with the mother and instructs that she has made clear to him that if he wants to be involved as a father, he needs to choose family over drugs.

The principles applicable to the sentencing of young offenders are well known, Imprisonment is an option of last resort. Rehabilitation is at the forefront. The defendant has however been assessed as unsuitable for home detention, unsuitable for a community corrections order, unsuitable for community service and is not considered suitable for a Drug Treatment Order.

In something of a Catch 22 situation, one of the reasons for his unsuitability for home detention, community service and a community corrections order is the concern of Community Corrections for its officers given that the defendant has committed prison offences involving violent conduct while abstinent from illegal drugs and one of the reasons that he is considered ineligible for a Drug Treatment Order is that he has been abstinent from illegal drugs.

In those circumstances, rather than impose a backdated and partially suspended sentence of imprisonment now and setting the defendant adrift in the community without any support, I

propose to adjourn sentencing until Friday 15 December 2023.

I have power to defer sentence under the *Sentencing Act*, s 57A, to enable assessment of your capacity, and prospects, for rehabilitation, to allow for him to demonstrate that he is being rehabilitated and to allow for you to participate in a pre-sentence programs and treatment. For those reasons that in this case I am deferring sentencing the defendant.

Mr Pickett, how you behave from this moment on will directly affect the sentence I decide to ultimately impose. All sentencing options remain open to me including reconsideration of home detention, reconsideration of a Drug Treatment Order all depending on your behaviour and including of course, a lengthy prison sentence if you do not take up this opportunity, or I might propose at the end of the day to impose a wholly suspended sentence if you have gone well. I propose to have you return to Court about every month so your progress can be monitored. At any time the deferral I am granting at the moment can be revoked and you can be sentenced.

So, I adjourn the proceedings, grant you bail, and order in accordance with Division 1 of Part 8 of the *Sentencing Act* that your sentencing is deferred until 15 December 2023. I impose conditions on your bail that:

- during the period of deferral you live at **address** and that you not change that address without the prior approval of the court, and that you not be absent from those premises between 9 pm and 6 am and present yourself to a police officer during those hours if called upon to do so;
- that you next appear at the Supreme Court, Hobart at 10.00am on Monday 17 July 2023 and thereafter at such time and date as the matter may be adjourned prior to the deferral date; and
- that as soon as practicable during the period of your deferral, you attend a medical practitioner for the purpose of establishing a mental health plan.

If you do not comply with those conditions of bail, or for any other reason, you may be brought back to court and the deferred date for sentence can be brought forward and I will sentence you.