

Kim Maree Maple, you have pleaded guilty to six counts of fraud. In the year 2014, you took part in a fraud perpetrated at the instigation of your brother upon an insurance company which yielded, for his benefit, just under \$56,000. Your brother had been sentenced to imprisonment for a sexual crime against a stepchild, and for his part in a conspiracy to intimidate that stepchild in relation to the giving of evidence. He needed someone to manage his affairs. He had been working as a sales manager with a large company. He travelled interstate a lot. He had four rental properties, all of which were mortgaged. He had a credit card debt that was over the credit card limit. He chose you, his only sibling, as the most appropriate person to manage his affairs. He signed an enduring power of attorney in your favour, and you took on the role of dealing with his affairs as his attorney. You were very much under his influence. You apparently were not able to say no to him when you should have.

He had an insurance policy with AMP. It was an income protection policy. He was entitled to claim on that policy if a medical problem prevented him from attending to his normal occupation, whether or not he was in custody. At first he was held in the Hobart Reception Prison. There was a general practitioner who treated prisoners there. That general practitioner signed the necessary documents for your brother to claim on the income protection policy. It was necessary for a fresh series of documents to be submitted to AMP every month in order for the payments to continue. A medical practitioner needed to sign a monthly form declaring that the insured was still unable to work, and that that practitioner had personally attended upon the insured, the claimant, during a particular month in order for the payment to be made in respect of the following month.

There came a time when your brother was transferred from the Hobart Reception Prison to the prison at Risdon. The first doctor did not go there. There was a different general practitioner who saw prisoners there. As a result, the first general practitioner was not prepared to certify that he had seen your brother during a one month period ending in February 2014. He was prepared to sign the form and did, but, when he completed that form, where it asked him whether he had treated your brother during the period to which the form related, he wrote, "No". You collected the completed form from the doctor. You changed the answer "No" to "Yes". You also changed the date on the form, and as a result the insurance company made a monthly payment amounting to \$9,162.05. The six charges that you have pleaded guilty to relate to a series of six consecutive monthly payments. Count 1 relates to the payment in February 2014 that I have just referred to. You fraudulently altered the form and sent it to AMP. As a result, the monthly payment was paid into your brother's account.

Then, in early March 2014, your brother saw the second general practitioner at Risdon, and asked him to sign the required form certifying his incapacity for a period of one month ending on 23 March. He would not do it. He said that he would only sign it if your brother signed a consent form that allowed him to communicate with AMP and a treating neurosurgeon to get further information. Your brother declined to sign the consent form. That tends to suggest that he expected that the information from the specialist and AMP would not be helpful to him, but I do not need to reach any conclusions about that. The significance of this is that, as a result of your brother declining to sign the consent form, there was now no honest way for arrangements to be made for the payments to continue.

At your brother's insistence, you resorted to dishonest means. You used the form that the first doctor had signed in February and, on five occasions, sent off copies of that to AMP with the dates changed. So you committed six crimes over a period of six months. In total that resulted in just under \$56,000 being paid to your brother. So you have been a participant in, loosely speaking, a \$56,000 fraud that could not have happened without your involvement. And what you have done has, to some extent, taken the sting out of the prison sentences that were imposed upon your brother. So it is not just a fraud. It is a fraud that caused a loss to an insurance company, and it is also a fraud that took the sting out of your brother's sentences, to some degree.

It is significant, of course, that the victim of this fraud was an insurance company with a deep pocket. If a \$56,000 fraud is perpetrated upon a person who has only got \$56,000, that is a lot worse. So, it is relevant in the scheme of things that this was an insurance company. But it is still a \$56,000 fraud involving six acts of dishonesty over a period of six months.

What should have happened is that your brother should have sold some real estate in order to reduce his indebtedness so that he could keep his affairs in order while he was in prison without an income. But that did not happen. He had you doing exactly what he told you, in all sorts of ways. That included looking after his younger son while he was in prison. And it included looking after his older son, who went to prison with him, as a result of involvement in the same conspiracy, once that son was paroled. Your brother and his son had you looking after their dogs, and that resulted in you having a thumb bitten off and having to be sewn back on.

In a lot of respects, you have had a very unfortunate life. I do not need to go into them. And it is perhaps not surprising that you were not good at standing up to your brother. But that is what the law required you to do.

When I came on to the bench this morning, I thought I would be sending you to prison for something like six months for this. But I have been told a lot about mitigating circumstances that count very much in your favour. You are 50 years old. You have no significant prior convictions. You have a good employment record. There has been a delay on the part of the Crown in bringing this case to finality. It relates to events that occurred over five years ago. It is significant that you have pleaded guilty, and that indicates an acceptance that you did the wrong thing. It was not an early plea of guilty. People sometimes get sentencing discounts of 20 to 25% if they plead guilty at an early stage. Again, I am told that reflects the influence of your brother – that he took charge of what was to happen in relation to the charges against you and him that were brought initially in early 2015. And it is only at a late stage that you have got a new lawyer and some sensible advice and have decided to plead guilty. That counts in your favour. It also counts in your favour that you have co-operated very significantly with the Crown and allowed them to brief your evidence so that you can give evidence against your brother next week, something that it will probably be very hard for you to do.

You have an excellent work record. At times you were working day and night when you were looking after your brother's sons. You have a job now in the Commonwealth Public Service and, tragically, you are at risk of losing it as a result of the convictions that I am going to impose. I think this is too serious for me not to impose convictions. You are also a cancer sufferer. You have been treated for two bouts of cancer. There is a family history of cancer. There is obviously a significant risk that there will be a third bout of cancer, and if that eventuates no one can say what the end will be.

Having regard to the mitigating circumstances, particularly your otherwise excellent character, your domination by your brother, your good work record, delay, your plea of guilty, and your promise to assist the authorities, I think that, although this case warrants a prison sentence, it is appropriate for me to impose a wholly suspended sentence.

I convict you and sentence you to five months' imprisonment wholly suspended on condition that you commit no offence punishable by imprisonment for a period of two years.

I order that no person is to publish any report of today's proceedings until the completion of the proceedings against Michael David Maple and the expiry of the appeal period thereafter if he is convicted, and the determination of any appeal against conviction, if there is one.