

Benjamin James Hellyer-Sutton pleads guilty to conspiring to pervert the due course of justice contrary to the Code, s 297(1)(b).

Christopher Watkins has not been seen or heard from since the evening of Wednesday, 7 August 2013. The police suspect he has been murdered. At the time of his disappearance Mr Watkins lived at Unit 7, 20 Box Street in Mowbray with at least three other men including the defendant. The police believe that on the evening of his disappearance Mr Watkins was at the Box Street unit with these three men and others. The police investigation into Mr Watkins' movements prior to his disappearance included speaking with the defendant. He provided a statutory declaration on 13 August 2013. He was interviewed on 18 August 2013. He was interviewed again on 13 September 2013. Although he gave a somewhat different version on 13 September 2013, the versions the defendant gave to the police on 13 August and 18 August 2013 included that at 8.30pm on Tuesday, 6 August 2013, he went on a hunting trip to Deloraine with other men. When interviewed again on 6 August 2015, the defendant agreed that this was a lie. By his plea, the defendant accepts that he conspired with others to tell the police something which had a tendency, and was intended, to frustrate or deflect possible future criminal proceedings against the person responsible for Mr Watkins' death.

The defendant is jointly charged with three others. On the facts I was given, the conspiracy between the co-accused involved a broader range of lies to the police about the events of both 6 and 7 August 2013. However, the defendant is to be sentenced on the basis that he acted on the conspiracy only to the extent of the lie that I have referred to.

The defendant is now 22. This crime was committed when he was 20. He is the youngest of three children. He does not know his father. His mother was unable to care for him and his siblings and they have all been in and out of foster care from a young age. I was told that the foster care was unstable and, at times, abusive. From age 16 the defendant has lived on the street, used illicit drugs, and fallen under the influence of others. One of those persons is a co-accused, an older man who exerted influence over the defendant, and who told him what to say to the police. Since this crime, the defendant has managed to separate himself from the influence of these other individuals and says that in 2015 he told the truth to the police. Even so, beyond saying that the Deloraine story was a lie, he did not disclose much else. He claims not to know what took place. I suspect he is also fearful of the others involved.

His plea of guilty is in his favour. It indicates some acceptance of responsibility. He has obtained stable accommodation. He still uses cannabis but has ceased using other illicit drugs. For a time he had seasonal work which has encouraged him to undertake training in the hope of other employment. Fortunately for him there are now good influences in his life. One friend, older than him, accompanied him to court and she is providing him with mentoring and guidance.

Conspiring to pervert justice tends to undermine and subvert the proper administration of justice. A prison sentence is almost invariably imposed as a mark of the Court's disapproval of the conduct and to indicate to others that prison is the almost inevitable consequence. To pervert possible proceedings in a murder investigation, the most serious crime, is a serious matter. In the circumstances of this case I am satisfied, however, that it is appropriate to wholly suspend the sentence with the additional condition that he perform community service.

The defendant is young. I am satisfied that he was susceptible to the influence of others and it is unlikely that he would have acted in this way without that influence. He has no relevant prior convictions. An actual term of imprisonment would undo some of the positive steps that he has taken in his life. If he can continue with his rehabilitation the community will ultimately be the better for it.

Benjamin James Hellyer-Sutton, you are convicted. You will pay the victims of crime compensation levy of \$50 within 28 days. You are sentenced to imprisonment for four months wholly suspended for two years. It is a condition of that sentence that you not commit any offence punishable by imprisonment during that period. You should understand that if you offend in any serious way over the next two years it is almost inevitable that you will be required to serve that sentence. It is an additional condition of the suspension of that sentence that you perform 70 hours of community service.