

STATE OF TASMANIA v LIAM PAUL BROOKS
COMMENTS ON PASSING SENTENCE

22 MARCH 2016
ESTCOURT J

The defendant has pleaded guilty to one count of being an accessory after the fact to burglary and stealing, one count of receiving stolen property, and one count of dealing with the proceeds of crime.

On 17 November 2014 at about 6.15am, the complainant entered the driveway of his business premises, the Red Bridge Café at Campbelltown, and noticed some tyre marks. On entering the café via the front door, he noticed it had been entered. There were some receipts on the floor behind the service desk. The area had been ransacked and stock had been thrown on the ground, and a laptop computer had been removed from the area. The complainant went to his office and noticed the door had been forced. Drawers and cupboards in the office had been opened and rifled through. A security cabinet containing approximately \$18,000 had been forced open and the money removed. \$300 from a cash tin had also been taken, and two more laptops had also been removed. The complainant went to the rear double wooden doors of the premises and found that they had been forced open. He checked the area outside the doors and found a jacket lying on the ground, some coins, and small amounts of products removed from the café. Just inside the doors was a first aid kit that had been opened and items removed. Beside the door were a number of boxes of alcohol which had been removed from inside the café.

The following evening, 18 November 2014, police found the defendant at Oatlands. They searched him and found one of the computers stolen from the café, and approximately \$2,000 in cash. The defendant was arrested for traffic matters and the computer and cash were seized from him. He was charged and bailed in relation to the traffic matters, but without being interviewed in relation to the café burglary and stealing.

Subsequently, on 19 November, he participated in a video recorded interview with police. He said that he was not personally involved in the burglary and that he was in a car down the road. He said he was on a road trip to Hobart and had stopped for a break and the next thing he knew, the five other people with him in the vehicle returned, having committed the burglary and theft. He was driving. He agreed that once the others got back into the car, at some stage shortly afterwards, he became aware of what had happened. He was shown what the others had stolen when they got to Sorell. He saw coin rolls, cartons of beer and a laptop. At Sorell the money was counted and he received a share. He said he received \$300 which he used to buy a car to attempt to get back to Launceston. He received the money for driving, he said. He left the car he travelled from Launceston to Hobart in, in Hobart, and he bought a second hand car to get home. However it broke down on the way. He said that he grabbed everything out of the car, and he said, "I didn't even think, I just grabbed everything that I thought was in there". In relation to the money police found him in possession of, he said he had received \$300 from the burglary and that the rest of it was legitimate.

On 26 November 2014 police interviewed a Robert Riley from Hobart and his girlfriend, Danika Holmes, as they were in possession of two laptops stolen from the Red Bridge Café. Riley told police that the defendant was a friend of his and he had known him for four years. He said that the last time he had seen him was about a week ago. Riley had an Apple computer in the lounge room and another in the bedroom of his house. He said they had been there for a couple of days and that the defendant had given them to him. The computers were

Apple Macs and when shown to the complainant, they were identified as being from the Red Bridge Café.

The defendant is 22 years old and has no relevant prior convictions. He was, however, given a nine months sentence, suspended for two years for a number of drug and dishonesty offences which occurred prior to and during the period after the commission of these crimes. He was also made subject to a 12 months probation order from 1 February 2016. Now, had the defendant come before me on these matters at that time, that is the course I would have taken, that is to say, I would have imposed a suspended sentence of imprisonment and made a probation order.

I take into account the victim impact statement which I have read, and I note that, regrettably, the complainant and his wife who ran the business, the Red Bridge Café, had been subject to four break-ins in a 10-month period. The crimes committed by the defendant represented the second of those break-ins, and then there were two further break-ins in a row in June 2015. The result has been that the complainant's wife has become fearful and lost interest in the business and, as a result of the burglary, the couple have cut back on opening hours and staff numbers have been reduced. People have lost their jobs. It cannot be said that this defendant is responsible for that, but it is regrettable that these crimes formed part of a series of events that had that impact on the victims.

The defendant is now in a stable relationship with a partner who was not involved in these crimes, who lives in Hobart. He currently resides at a rural property outside Exeter. He hopes to go back to Ellendale to work at a property known as Kingsholme which is part of a program run by Pathways Tasmania, to which I will refer in a moment. His ultimate ambition is to return to Hobart to live with his partner. He has some community service orders which were imposed by the magistrate on 1 February 2016, and they will need to be completed, probably in Hobart. No doubt it will be difficult to find a program specifically at Ellendale. The defendant is presently doing odd jobs on farms near Exeter.

He became addicted to methylamphetamine in 2012 and it can be seen that a serious course of offending accompanied that addiction until about May 2015. He has been drug-free since May 2015, and in fact entered detox in October and November 2015, drug-free, but in withdrawal. The offences for which he was dealt with on 1 February 2016, as I have said, all occurred before the defendant made considerable efforts at rehabilitation by completing almost six weeks at Live Free Tasmania after coming from detox. He is reported on, as at December 2015, by Andrew Herring, the operations co-ordinator of the program, as a "completely different person", having gained extensive knowledge about the dangerous substances the drugs he was using contained at the time of his offending, and the harmful effects they have on the human body. He has already used this knowledge, as at the time Mr Herring reported, to help others, including his partner. He will need to continue with drug counselling and to stay away from Launceston and its harmful associations for him. He has ceased involvement with his former associates, and is living at Exeter, and subsequently living again at Ellendale would reinforce that situation. He has, pursuant to the probation order imposed by the magistrate on 1 February 2016, been seeing a drug and alcohol counsellor, has attended at least three appointments, and has another appointment due. All of this, I observe, following up on his involvement with Pathways points to a very good case of rehabilitation. He intends to be enrolled, and I understand he has been assisted in this course, in a TAFE certificate course in youth work. He wants to use his experience to help others. He has not offended since May 2015. In other words, he has not offended since he has been

drug-free. And that now is a substantial period. The defendant pleaded guilty to these charges. He has never denied his involvement in the crimes set out in the indictment, and he is entitled to a discount on an otherwise appropriate sentence for having pleaded guilty.

Given the defendant's still relatively young age, and lack of relevant prior convictions prior to these crimes; and given that these offences could, apart from technical difficulties, have been dealt with by the magistrate on 1 February 2016, at the same time as the other offences; and given that, as I understand it, further community service is not appropriate, the course I propose to take is to impose a further period of imprisonment, wholly suspended. That, in my view, is probably what would have happened had the magistrate had these matters, or had it been possible for the magistrate to have had these matters before him on 1 February 2016.

The defendant is convicted on each of the three counts set out in the indictment. He is sentenced to a period of three months' imprisonment, wholly suspended for a period of 18 months. The probation order made by the magistrate on 1 February 2016 will obviously remain in place for a further period until it expires after 12 months. So I do not need to be concerned any further about probation or probation order conditions. I make the usual victims of crime compensation levy order.