

You have pleaded guilty to one count of armed robbery contrary to the *Criminal Code*, s240(3).

At about 6.50pm on Friday 30 October 2015, you left your home in Kingston and drove to the Kingston shopping centre. You left home intending to rob the local chemist. You were wearing two hoodie jackets and had a green plastic shopping bag, a balaclava, a knife with a serrated edge and a blade about 15cm long and a pair of gloves. When you arrived in the car park near the chemist, you placed the balaclava on your head, but not over your face, placed the hoodies over your head and put the gloves on. You then walked towards the chemist carrying the knife and green plastic bag.

As you entered the chemist, you put the balaclava over your face and walked up to the dispensary area, holding the knife in your right hand and the green plastic bag in your other hand. You walked behind the counter, with the knife in one hand, and said to the staff member, calmly and quietly, *"Alright I need you to put all your oxy's, MS Contin and methadone in the bag"*. The female said *"Pardon? I don't want any trouble"*. You repeated your request and said *"Fill it up quick and there won't be any trouble"*.

The staff member walked to the back of the dispensary area where the safe was and you followed. The safe was unlocked and a quantity of MS Contin and Oxynorm was removed and placed in the green bag. The knife was obvious and pointed in the staff member's direction. After a few seconds you said *"That's enough, that will do"* and pulled the bag, containing the drugs, from the lady's hands. She leant back and put her arms in the air so you could access the safe yourself. You leant across her and removed 6 more boxes of Oxynorm and placed them in the green plastic bag. You then left the chemist and ran to your car and drove home.

The chemist contacted the police as soon as you left the premises. A witness saw you drive away and followed. That witness lost sight of your car in a street near where you lived. When you got home, you removed the hoodies and placed them in the grass catcher of a lawn mower. You put the knife in your toiletry bag and the gloves in a work bag. You then removed all the medication from the boxes and placed the sleeves of tablets into snap lock bags and hid them in the bottom draw of a tallboy in your bedroom. You put the empty medication boxes into a rubbish bag and placed that bag in your wardrobe.

All up you stole 2 boxes of MS Contin 10mg tablets (56 tablets), 1 box of MS Contin 30 mg tablets (28 tablets), 5 boxes of MS Contin 5mg tablets (142 tablets), 1 box of MS Contin 60 mg tablets (28 tablets), 1 box of Oxynorm 10mg capsules (20 capsules), 1 box of Oxynorm 20mg capsules (20 capsules) and 7 boxes of Oxynorm 5mg capsules (140 capsules). The medication was valued – over the counter and purchased legally at about \$300.00.

Police located your car and attended your home late on the night of the robbery. They found all the medication, save for 3 x 60 mg MS Contin tablets you had taken, the empty medication boxes, the knife used and the clothes worn.

You were subsequently interviewed by police and made full admissions which included an explanation as to why you carried out the robbery. You said you had no intention to take any money or hurt anyone.

You are 42 years old. While you have a number of prior convictions, they are predominantly driving matters save for ones imposed on 9 May 2008. On that date you were convicted of one count of aggravated burglary and one count of stealing in the Magistrates Court and ordered to perform community service.

You entered a plea of guilty to this matter at a very early opportunity. You also wrote a detailed letter of apology to the staff at the chemist which you handed to Kingston police shortly after your plea of guilty.

At the time of the offending, you were employed as a deckhand on a fishing boat. You had received a call indicating that you were to work the next day and there would be two divers, making the day a hard one. You had suffered a back injury many years before and in effect could not work without taking significant pain killing medication. You had been sourcing morphine illegally and become addicted. You were on the methadone program and as a result could not be prescribed pain killers. You needed to work and so, on the spur of the moment, you decided to rob the pharmacy that night to get a supply of pain killers so you could go out and work.

The medication you stole was for your own personal use.

When spoken to by police you expressed remorse for your actions and indicated the knife you carried was for show and not to use. The prosecution facts do not indicate you brandished the knife you had, only that you held it. The incident was relatively short-lived. At the time of your offending, there were four female staff members, including two teenagers, and two male customers. Your offending, notwithstanding your personal circumstances which gave rise to it, has had a dreadful impact on the female pharmacist whom you directly dealt with and the other young female staff in the chemist that day. The difficulty for them is you might say you did not intend to harm anyone and perhaps you did not. However the people in the chemist that day would not know that. They were confronted by a man demanding drugs who was armed with a knife. That itself, no matter your intentions, made them very afraid and has resulted in the pharmacist remaining fearful of people coming into the pharmacy and having to take a significant amount of time off to seek psychological help for the trauma she faced.

I sought a pre-sentence report given your background. It seems you have a relatively close knit family who remain supportive of you. Your mother will give you a home on release and your brother will give you work. While in prison, you have stopped use of morphine and learnt to manage any back pain which remains by other means. It is clear you will probably need support on release to ensure you remain drug free. The report recommends probation for that purpose and indicates you are suitable to perform community service.

The crime you committed was a serious one with disastrous consequences for the pharmacy staff. I accept you are remorseful and that the reason for the robbery was as you told police. You have pleaded guilty at a very early stage and relieved the victims of your robbery from the need to be involved in a trial. You have now been in custody since 25 February 2016.

The nature and circumstances of the crime notwithstanding the mitigating factors I have identified dictate that an immediate custodial sentence must be imposed. That must be imposed to reflect the need for general deterrence in particular.

In all the circumstances, the orders of the Court are that:

1. You are convicted of one count of armed robbery contrary to the *Criminal Code*, s240(3).
2. You are to serve a period of three years imprisonment with effect from 25 February 2016. You are to be eligible for parole when you have served one half of that sentence.
3. You are to be subject to a probation order for a period of 12 months on your release from custody.
4. You are to pay a victim of crime compensation levy of \$50