

STATE OF TASMANIA v SHAE LEE PARKER
COMMENTS ON PASSING SENTENCE

24 NOVEMBER 2023
PEARCE J

Shae Lee Parker, you plead guilty to aggravated carjacking. I also agreed to deal with your plea of guilty to common assault. The crime of aggravated carjacking is committed when a person, with others, assaults another person with intent to take a motor vehicle. On 26 January 2023 Jason Burns and Nadine Bryan were in a white BMW sedan parked in the car park at Brady's lookout. They had been driving in the car along the West Tamar Highway but pulled into the car park and stopped because the car had a mechanical problem. The car belonged to Mr Burns' mother Venecia Rushton.

You had a grievance with Nadine Bryan which I will explain in a moment and you had been told where she was. You set out to find and confront her and take a mobile phone she had. You were in a white Land Cruiser being driven by your then partner Liam van Galen along with one other male and one other female. When you saw the car you were looking for in the car park you directed Mr van Galen to pull in and stopped close to it. Mr Burns was outside the BMW looking under the bonnet. On seeing your car approach Mr Burns ran off. Mr van Galen chased him yelled threats including that he would break his neck, thereby assaulting him. You immediately approached Ms Bryan who was seated in the passenger seat. You repeatedly struck Ms Bryan to her upper body and attempted to pull her from the vehicle. You then braced herself against the vehicles and stomped on Ms Bryan's upper torso demanding that she get out of the car. As Ms Bryan slowly exited the car you and Mr van Galen tried to prise her belongings from her hands. You repeatedly punched her again at the same time that she was punched and grabbed by the other female who led Ms Bryan away.

Your female associate then managed to get the BMW started and the other male drove off in it. All of the foregoing is confirmed by dash cam footage from your own vehicle.

Ms Rushton's car was taken and sold for a paltry sum and has not been recovered. I have no victim impact statements from either Ms Bryan or Mr Burns. There is no suggestion that Mr Burns could have been injured although he might have been frightened at the time. The situation is different for Ms Bryan. She was subjected to forceful punches and kicks which must have had an effect on her even if it was transient, and being the victim of violence of that nature must also have been traumatic. It was put, without dispute by the prosecution, that the crime was motivated by your belief that Ms Bryan had used a phone you lent to her to access and steal from your bank account. I have no way of testing the truthfulness of that assertion but it is consistent with what was recorded as having been said by you and your associates at the time of the crime. I have no reason to not accept the genuineness of your belief about what had happened and that this drove the wish to recover the phone. That may explain your crime but does not excuse public violence, accompanied by dishonesty, committed in company against a single female who was considerably outnumbered.

You are to be sentenced on the basis that you are criminally responsible for all of the violence and threats. You were personally responsible for most of it and you were one who was directing the events which occurred including the taking of the car.

I was given details of your personal circumstances by your counsel and I have pre-sentence report prepared by Community Corrections. You are now aged 31. You have three children although they are not in your care. You had a very difficult upbringing. By age five you were in State care. You were the victim of abuse and neglect as a result of which you suffered significant

trauma. As a result of the abuse you received a redress scheme payment which was the source of the funds from which an amount was stolen. That added to the distress you experienced as a result of the theft and led to heightened emotions and a wish to prevent further dishonesty by recovering the phone. Your inability to control your emotions, especially when you are enraged, is a consequence of trauma and is something for which you receive psychiatric assistance. Added to this your life has been characterised by periods of abuse of illicit drugs, and you were affected by drugs at the time of this crime.

Your criminal record commences in 2015 when you were in your early 20's. It is mostly for dishonesty and driving offences and does not involve violence except for one offence at the end of 2021 of stealing with force. On 17 August 2023 you were sentenced to imprisonment for seven months by a magistrate for further dishonesty, firearm and driving offences committed in late 2022 and early 2023. The term commenced on 18 April 2023, the date you went into custody and your earliest release date was 17 November 2023. The total effect of that sentence combined with the sentence I impose will be taken into account.

I was asked to consider making a drug treatment order. I cannot do so if the offence involves the infliction of actual bodily harm that, in my opinion, was not minor harm. I have little material about that, however I think it is inevitable that the type of force which can be observed on the visual recording would have resulted in an injury or interference with Ms Bryan's health which was more than minor. Regardless of that conclusion I do not consider a drug treatment order to be an appropriate sentence for this crime. This was an intentional and targeted attack for a specific reason and I do not think that I could be persuaded to the view that illicit drug use contributed to its commission except in an indirect way.

Although aggravated carjacking is a serious crime, this is not the most serious example. Although the car was taken, the primary focus was the phone so that further dishonesty could be prevented. The combination of all of the factors I have referred to in these remarks leads to a situation in which you require a high level of intervention and assistance if you are to rehabilitate yourself. The problem is that your level of compliance with community based sentencing orders in the past has been very poor. You are unsuitable for community service. You have also been assessed as unsuitable for supervision but, without it, I think that there is a very high risk that you will re-offend. Accordingly, I will suspend part of the term I am about to impose on conditions designed to provide you with a strong incentive to stay away from drugs and crime, because you know that if you do not comply you will be returned to prison. I will order that you appear in this Court again shortly after your release so you can be reminded of your obligations and so I can monitor your progress and compliance.

Shae Lee Parker, you are convicted on the indictment and on count 2 on complaint 30355/23. I make a compensation order in favour of Venecia Rushton and adjourn the further terms of that order to a date to be fixed. I impose one sentence. You are sentenced to imprisonment for 15 months cumulative to the term you have just completed or are liable to serve. I suspend eight months of that term for two years from today. It is a condition of that order that while it is in force you do not commit another offence punishable by imprisonment. That will start now so it will include an offence you may commit while you are in prison. If you breach that condition then a court must activate the suspended eight month part of the term unless that is unjust.

In addition, I impose a condition on the suspended sentence that, for the balance of the operational period of the order following your release you will be subject to the supervision of a probation officer. The conditions referred to in s 24(5B) of the *Sentencing Act* apply to this

condition and will be set out in the order you will be given. These include that you must report to a probation officer at the office of Community Corrections in Launceston within three clear working days of your release, you must submit to supervision and comply with the directions given by your probation officer, you must not leave Tasmania without permission and you must notify of any change of address.

In addition to the core conditions, the order will also include the following special conditions that you must, during the operational period of the order:

- i. submit to the supervision of a Community Corrections officer as required by that officer;
- ii. attend educational and other programs, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer; and,
- iii. appear again in this Court before me at 2.15 pm on Monday 22 July 2024 and on such days thereafter as may be determined.