

At about 3.30pm on Monday 17 April this year you and another person were travelling in a grey Holden Commodore which was being driven by your mother. She stopped the car on Kenbrae Avenue in Glenorchy and you exited the vehicle in possession of a blue pillowcase and a large knife. You entered the Langridge Store located in Chapel Street wearing a black hooded jumper, black track pants, black shoes, black gloves, a black mask and sunglasses. You brandished a large knife as you entered the store and a customer fled. You approached the complainant who was standing at the counter. The complainant is the owner of the store. He told you to calm down and put down the knife. You yelled at him asking for cash and pointing the knife at him. You moved towards the cash register which was behind the counter where the complainant was standing. He let you through and you took between \$120 and \$200 in cash. You then removed a cigarette cupboard and smashed the door of the locker to gain access to the cigarettes. You took about 16 packets of cigarettes and put them into the blue pillowcase you were carrying. You dropped eight packets of those cigarettes as you were leaving the store. You ran along Chapel Street towards Kenbrae Avenue where you were met by another person and you both ran back along Kenbrae Avenue and into the car. The vehicle was then driven away by your mother.

Upon the complainant contacting Tasmania Police, CCTV footage was retrieved from within the store. It captures the offending.

Subsequently police located the Commodore in Paringa Road in Glenorchy a short distance from 116 Chapel Street at Glenorchy. Police noticed the door to that residence was opened and they attended, finding you there along with the other person and your mother. You were all arrested. A search warrant was executed at that address and police located a black hooded jumper the same as that worn by you during the robbery. In the rear yard a large ornamental 40 centimetre knife with a 25 centimetre sharp metal blade was found. This was used in the commission of the offence. A glove and a pair of black shoes were also located and the blue pillowcase was found in a trash pack. Eight packets of cigarettes and \$125 cash all in notes were found. Police also located an item of clothing and a black handled knife.

The motor vehicle was seized and searched and within it was found a \$5 note behind the drivers seat, asserted by the State to be cash stolen from the store, a black glove the same as that found in the rear yard, a pair of black sunglasses and a pair of black pants.

You participated in an interview with police just after 10pm on 17 April and told them that you were at the Chapel Street address which belongs to your uncle and you had been there all day and did not leave there at any time. You said that your mother and the other person arrived during the morning, that you did not see them leave and that you were arrested for something you did not do. You said that it was not you in the CCTV footage, that you do not know the store. You said you do not own a black hooded jumper and do not wear the type of clothing depicted. You said that you do not have plain black shoes and you have never seen your mother drive a grey Holden Commodore. At the conclusion of the interview you were charged, and granted bail, on the Youth Justice Court on 9 May. You have spent 23 days in custody to that point. On 20 July 2023 you pleaded guilty in the Youth Court at which time you were committed to this Court for sentence.

The value of the stolen property is about \$610 made up of 16 packets of cigarettes, about \$480 in value, as well as \$130 in cash. At the time of the commission of this offence you were subject to a release and adjourn order made in the Youth Court in respect of offending prior to this offending, in which you were sentenced on 24 March 2023.

I am told you are currently residing with your partner and her family in Derwent Park after an unstable period that endured for 12 to 18 months prior to your moving there. Your upbringing is one that is described as having being marred by childhood trauma and instability stemming from exposure to family violence and abuse, neglect, issues with stable accommodation and an environment characterised by substance abuse. Child safety records in relation to you date back to 2010, when you were just four years of age. You are the third of six children, and have a younger brother who at the time I heard submissions at least, was remanded at Ashley.

In 2022 Child Safety and Housing Tasmania intervened in relation to your living circumstances and directed that you were not to reside with your mother at the family home and you subsequently spent periods living with your father in the north of the State, your uncle in Glenorchy, and an aunt.

Your early education occurred in New South Wales, where you lived with your mother between 2013 and 2017 and during this time your special needs in relation to your education were identified. You had support at school in Newcastle, but upon returning to this State did not receive the same level of support. You are apparently engaged now with the back-on-track program having been referred to that service at the start of 2023 following your release from the Ashley Youth Detention Centre. I am told that you are well engaged with that program and working towards finding employment, matters that were subject to further submission today reinforcing that point. You have also expressed a desire to engage with psychological support, a course that I consider to be in your best interests. I understand that assistance is being provided in that respect through the Australian Childhood Foundation. You are also supported through the NDIS and have the benefit of a mentor with whom you meet weekly.

I expressed concern to your counsel, and I repeat that concern now, that despite that support your offending has continued and indeed gotten more serious. I accept to some extent that the benefit of the sentencing orders made in the Youth Justice Court had not accrued at that time of this offence, because you had little opportunity to engage with that entity before the commission of this offending.

On a positive note, you have completed a previous community service order of some 40 hours. You are subject to another order of an additional 15 hours with an additional 18 hours to perform.

I take the view that it is critical that you engage fully with the organisations who are attempting to support you. If you do not, you will face ongoing attention from police, conviction and eventually incarceration. There is no future for you in that. It is critical that you take responsibility for your future. It is encouraging that comments made in the pre-sentence report appear to recognise your understanding the end for this, and have indicated that you do not want to continue going down this path.

Drug use has been a factor in your offending, and I am told that through counselling, drug and alcohol use will be the subject of further attention. This also needs to happen.

You have apparently taken steps to move away from negative influences. Again, that needs to happen if you are serious about turning a corner.

Your offending on this occasion was serious, and will have caused significant fear to those who witnessed it and of course to the complaint who was directly threatened by you. You appear to acknowledge that your victims will have been terrified by your behaviour.

This sort of offending is easily committed, and the Court has a duty to protect those who are at the front line in the provision of services to the community, whether shopkeepers, taxi drivers or service station attendants. People in those positions are vulnerable to behaviours such as this.

It follows that the sentence the Court imposes must not only punish you, but serve to deter others.

In the circumstances, I intend to deal with you under the *Sentencing Act*, and not the *Youth Justice Act*.

I accept that your plea of guilty was an early one, and that you have saved the victim of your crime from the need to give evidence in relation to it. The utilitarian benefit of that plea must be recognised the Court in the sentence that it imposes and I will discount that sentence by 20% in recognition of that benefit.

Your counsel submits that you are generally fearful of a period of custody, having experienced periods in custody in the past at the Ashley Youth Detention Centre.

It is right that you should fear periods in custody. That fear is intended to discourage you from further offending.

You are still a young man and your rehabilitation is an important sentencing consideration perhaps paramount. The sentences that have been imposed upon you in the past have clearly identified the need to encourage your rehabilitation as the primary sentencing focus.

However as I have noted, this offending marks a step up in terms of the seriousness of your behaviour. In my view, a sentence of imprisonment is required to deter you from engaging in this type of behaviour in the future and to mark the seriousness of the behaviour with a view to deterring others.

In the circumstances I impose a sentence of six months' imprisonment. That sentence takes in account time spent in custody.

Having regard to your age, the fact that your rehabilitation is a paramount sentencing consideration, and because you appear to have engaged well with external agencies attempting to assist you, I will suspend the operation of that sentence for a period of two years. However it is a condition of that suspension that you not commit any other offence punishable by a term of imprisonment in that time. If you do you may be required to serve the sentence I have just imposed. It is my hope that the fear of being required to do so will

operate to encourage you to desist from further offending, and engage fully with those agencies attempting to assist you. It is entirely in your hands.

I make the compensation order sought by the State.

DSW the sentence is six months' imprisonment but I have suspended it if you commit no offence in the next two years and that will be the end of it, but if you do you run the risk of being required to serve the sentence that I have just imposed.