

STATE OF TASMANIA v KJS
COMMENTS ON PASSING SENTENCE

4 DECEMBER 2023
BLOW CJ

KS, you have pleaded guilty in the Youth Justice Division of the Magistrates Court to two charges of armed robbery and one charge of attempted armed robbery. You have been committed to this Court for sentence.

The first of these crimes was an armed robbery committed in the late afternoon on Monday 5 June 2023. You went into a store in Moonah wearing a hoodie with the hood up. There were no customers in the store. A teenage employee was sitting at the checkout. You pulled out the knife, pointed it at the employee, demanded money, and were given about \$450 in cash. You left and ran away. The employee's father who owned the store was also present at the time.

I have been given a victim impact statement from a family member and the \$450 is not important, but the impact that this robbery had on that family was terrible. They have all been shaken by it. For months they only opened the door of the shop to people that they knew, and that meant that they lost money. They now close earlier than they used to. They are all really scared of something like this happening to them and someone getting hurt.

That robbery was recorded on the store's CCTV. Police officers located you about three hours later and took you to a police station. You took part in an electronically recorded interview and admitted what you had done. You said that your cousin had told you to commit the robbery, and that you believed that you would get bashed if you did not do it. You said the cousin gave you the knife, that you handed the money over to him and his friends, and that you threw the knife away near a particular school. You told the police that you were "dumb for doing it" and that you were the guinea pig of the others. You were charged and bailed.

Two days later, at about 7.30pm, you went into a restaurant in Moonah. You approached an employee, lifted your top to reveal a knife tucked into the waistband of your pants, removed it, pointed it towards the employee, and demanded money. The employee stepped backwards, and told a second employee what was happening. The second employee came out of the kitchen area holding a large metal rolling pin, and you fled. I do not have a victim impact statement in relation to that crime.

About five minutes later you went to a bottle shop in Moonah. An employee let you in. You removed the same knife and demanded money. The employee removed the cash drawer from the cash register, placed it on the counter, and raised his hands. You got the employee to provide you with a bag and hold it open. You fled with about \$600-\$700 in cash.

A second employee was present in the bottle shop. She saw the robbery in progress and remained hidden in the walk-in refrigerator until you departed. I do not have a victim impact statement in relation to that robbery either.

You were arrested that night and taken to the Hobart Police Station where you took part in an interview and admitted what you had done at both the restaurant and the bottle shop. You said that you had split the money with your cousin, but that the robbery was your idea, and not pre-planned. You said that you had not been taking your medication, that you were not thinking properly, and that you regretted what you did.

You are 16 years old. You had been in trouble with the police on a number of occasions before committing these crimes, but had never previously been dealt with by a court for any offence. In October of this year a magistrate made a conditional release order in relation to a number of offences committed by you, most of which were committed after these crimes. However one of the charges related to an attempted burglary in May 2023.

You have got a number of problems. You suffer from autism, anxiety and attention deficit hyperactivity disorder. You have an intellectual disability. In your early years you were physically abused by your mother's boyfriends. She took her other children and moved to Queensland, leaving you behind. Since you were 10 years old you have been looked after by your grandmother, but she has cancer and is terminally ill. Her condition has been very upsetting for you. You are easily led by other young people. You realise that other people have got you into trouble. You understand the impact that a knife-point robbery can have on robbery victims. You hope to stay out of trouble, to build up your fitness, and to spend time involved in sport. However you have had problems with drug and alcohol use. It counts in your favour that you have pleaded guilty to these charges. I am also taking into account the fact that you have already spent 15 days in custody in relation to these crimes.

I have been provided with a detailed youth justice report. The youth justice workers have recommended that I make a probation order. I will do that, but I will also require you to perform some community service, as a punishment. Armed robbery is a serious crime. Sometimes the victims have mental health problems for years and years afterwards.

I convict you on all charges and make a probation order for a period of 18 months from today, with special conditions as follows:

- You must attend education, personal, health and other programs as directed by your assigned youth justice worker.
- You must, as directed by the Secretary, submit to testing for controlled substances or alcohol.
- You must undergo medical, psychiatric, psychological and drug counselling and treatment as directed by your assigned youth justice worker.

I also make a community service order requiring you to satisfactorily perform 42 hours of community service as directed by your assigned youth justice worker.

You will have to report to your youth justice worker at St John's Park in New Town within the next two days.