

STATE OF TASMANIA v MATTHEW DALE PERRY
COMMENTS ON PASSING SENTENCE

1 FEBRUARY 2024
JAGO J

Mr Perry, you have pleaded guilty to 57 counts of fraud contrary to s 253A of the *Criminal Code*. The crimes were committed over five separate days, between November 2022 and June 2023. In summary, you used stolen fuel cards that had come into your possession to dishonestly obtain fuel worth \$70,789.33 from various service stations operated by Bennett's Petroleum and Bonney Energy.

Bennett's Petroleum operated unmanned service stations at Cambridge and Bagdad. Those stations operated 24 hours a day, seven days a week and allowed fuel to be obtained using the electronic fuel card system installed at those stations. Bonney Energy operated a manned service station on Stoney Rise Road, Devonport.

On 8 November 2022 a Bennett's Petroleum fuel card was stolen from the Don College in Devonport. Between 13 and 14 November 2022 you used that stolen card on 25 occasions to remove 21,062.98 litres of diesel, worth \$49,993.41 from the Bennett's Petroleum service stations at both Cambridge and Bagdad. The amount of diesel taken was so significant that it drained the tank at the Cambridge station. That led to enquiries being undertaken. Footage from CCTV cameras showed you, frequently in the company of others, arriving at the respective service stations, either in a Ute towing a trailer with a large plastic tank on it, or in a white transit van with tanks in the back of it. In simple terms, you would fill the tanks, drive away, presumably deposit the fuel somewhere, before returning later in the day and repeating the process.

In February 2023, a fuel card was stolen from a Toyota HiAce van belonging to Spraoi Child Care. That card came into your possession. The card was used by you at the Cambridge service station to obtain 227.38 litres of diesel, worth \$499.38.

Between 2 June and 11 June 2023, a fuel card issued to Treloar and Civil Quarries was stolen from a motor vehicle. You came into possession of that card. You used it at both the Cambridge and Bagdad service stations to obtain 5,113.64 litres of fuel, worth \$8,606.07. You also used that card on 23 occasions at the Stoney Rise Road manned service station to obtain 6,936.4 litres of fuel, worth \$11,680.47. Again, investigations into the matter revealed CCTV footage of you operating the diesel pumps and putting fuel hoses into various fuel tanks on the back of vehicles or in trailers. On occasions when you attended the manned service station, you wore a VEC Civil Engineering jacket so as to give the appearance of being a legitimate customer.

On 16 June 2023, police executed a search warrant at Safespace, an accommodation provider where you were living. They found the VEC Civil Engineering jacket in a backpack belonging to you. Staff at Safespace were also able to confirm you had been in possession of a Bennett's Petroleum fuel card. You were subsequently arrested. You participated in a record of interview. You admitted having the fuel cards in your possession. You admitted being the person in the footage and being responsible for the taking of the fuel. You told police you did it for money because you wanted to be able to obtain stable accommodation so as to provide for your children.

You are 35 years of age. You have a limited history of prior offending, only some traffic matters and a low-range drink-driving offence, but no history of dishonesty. You pleaded

guilty to these matters at a very early stage. That counts in your favour. There has not been a need to prepare what would have been a relatively time-consuming trial. Up until December 2021, you led a relatively stable and productive life. You were employed and were in a long term relationship to which there were two children. You did, however, have some issues with illicit substance use, which caused you some difficulties along the way.

In December 2021, your relationship with your partner broke down. You left the family home and had difficulty in obtaining alternate accommodation. You experienced homelessness and spent considerable periods of time sleeping on the streets or in empty buildings. I am told you felt a sense of loneliness and isolation during this period as your partner had been your primary support. You began to use illicit substances very heavily and before long your addiction was quite extreme. Against that background, these crimes were committed. You would sell or exchange the diesel for drugs and/or money to buy more drugs or fund accommodation.

Drug addiction is, of course, no excuse but it does go some way to explaining why these crimes occurred when in the past you have not shown a propensity for dishonesty. Whilst addiction is not, of itself, mitigating if there is a prospect that a defendant may rehabilitate, that is a matter that can be taken into account as a favourable consideration in mitigation. I am told that since September last year when you were able to secure accommodation at the Burnie Lodge, your life has stabilised considerably and you are now determined to address your drug use issues. In the past couple of months you have been making a concerted effort in that regard. You appreciate that your addiction is long standing and you may not be able to achieve long term abstinence on your own. You sought assessment for the Court Mandated Drug Diversion Programme and you have been assessed as eligible and suitable.

There is no doubt that this was serious offending. It was brazen and resulted in you dishonestly obtaining a substantial amount of fuel. You caused significant losses for the businesses involved. Ordinarily, a gaol sentence would, in my view, be appropriate. However, because this is your first offending in terms of dishonesty and because it does appear as though you are now better positioned, and have a genuine desire to address a long term drug addiction, it is, in my view, appropriate to impose a Court Mandated Drug Diversion Order. It is not only in your interests but also the broader community's that you reform, address your drug addiction and go on to lead a productive life. You have in the past demonstrated you have the capacity to do that.

In my view, a CMD order achieves the appropriate balance between a punitive and rehabilitative response. It will provide you with the opportunity to demonstrate you are genuine about addressing your substance abuse issues, but of course, if you do not maintain the commitment and application that is necessary to complete the programme, the custodial component of the CMD order is likely to be activated and you will go to gaol.

I make the following orders. I record convictions in respect to all crimes. I impose one sentence. That best accommodates the need to reflect the principle of totality. I impose a Drug Treatment Order with a custodial component of ten months. You will not be required to serve any part of that sentence unless you are ordered to do so by a court as a result of you not complying with the treatment and supervision part of the order. The Drug Treatment Order will contain all of the usual core and programme conditions contained in s 27(g) and 27(h) of the *Sentencing Act* 1997. They are lengthy. You will be provided with a copy of them in writing. They are as follows:

- 1 You must not in Tasmania or elsewhere, commit another imprisonable offence;
- 2 You must attend the Magistrates Court, Burnie at 2.15 pm on 15 February 2024 and thereafter attend the Magistrates Court or this Court as and when directed to do so;
- 3 You must report directly to a Court Diversion Officer at Community Corrections, Reece House, Burnie by close of business tomorrow, Friday, 2 February 2024;
- 4 You must undergo such treatment for your illicit drug use as directed by your case manager or Court Diversion Officer, or as from time to time specified by the Magistrates Court or this Court;
- 5 You must report to and accept visits from your case manager or Court Diversion Officer;
- 6 You must, unless there are special circumstances, give your case manager at least two clear working days' notice before any change of address;
- 7 You must not leave Tasmania except with the permission, granted either generally or in a particular case, of the Magistrates Court or this Court;
- 8 You must comply with all lawful directions of the Magistrates Court or this Court;
- 9 You must comply with all reasonable directions of your case manager and Court Diversion Officers concerning the core conditions and programme conditions of this order.

Further programme conditions will be imposed. They are as follows:

- 10 Throughout the duration of the order, you must reside at [address provided] or another address approved by your Court Diversion Officer or case manager and not change that address without the prior approval of the Court, your Court Diversion Officer or case manager. You must be at that address between the hours of 9pm and 6am daily and present to a police officer if directed to do so;
- 11 You must not use or possess any controlled substance within the meaning of that term in the *Misuse of Drugs Act 2001*;
- 12 You must not use any medication unless prescribed to you by a treating medical practitioner, approved by your Court Diversion Officer, or case manager and in accordance with the medication directions for use;
- 13 You must submit to random testing for the presence of drugs or alcohol as directed by your case manager or Court Diversion Officer;
- 14 You must submit to urinalysis as directed by your case manager or Court Diversion Officer;
- 15 You must submit to oral fluid testing or breathalyser testing as directed by your case manager or Court Diversion Officer;
- 16 You must submit to detoxification or other treatment, whether or not residential in nature, as directed by your case manager or Court Diversion Officer;
- 17 You must not associate with persons or classes of persons as directed by your case manager or Court Diversion Officer;
- 18 You must not associate with, or be found in the company of, Daniel Cannell, Andrew Charles or Timothy Fowler.
- 19 You must attend for assessment, and if deemed suitable, participate in and complete any vocational, educational, employment, rehabilitation or other programmes including, if directed to do so, the Equips Addiction programme;
- 20 You must attend counselling and/or treatment as directed by your case manager or Court Diversion Officer;
- 21 You must submit to medical, psychiatric or psychological treatment as directed by your case manager or Court Diversion Officer;

- 22 You must maintain the use of and remain contactable by a mobile phone that is capable of receiving messages about drug testing, case management and/or counselling appointments from your case manager or Court Diversion Officer;
- 23 You must not consume alcohol throughout the duration of the order.

I make a compensation order in favour of Bennett's Petroleum, the terms of which will be adjourned for assessment. I make a compensation order in favour of Spraoi Child Care Pty. Ltd., the terms of which will be adjourned for assessment. I make a compensation order in favour of Bonney Energy, the terms of which will be adjourned for assessment.