

The defendant has been found guilty by a jury of one count of aggravated armed robbery contrary to the *Criminal Code*, s 240(4). On 25 October last year, Martyn Carnes, aged 57, lived alone on a rural property at Colebrook. He was living in a shed on the property while he built a house there. On the day, he was awoken by the sound of his dog barking at about 7.55am. He went outside and saw the defendant standing outside another shed on his property. The defendant approached him and, engaging in conversation with Mr Carnes, he hit him with a hammer. Mr Carnes fell and lost consciousness and when he woke he found himself with a hood over his head and his hands and legs bound with rope. He heard a male say, "Watch him, watch him. Every time he moves hit him on the head." He was asked where his guns were and he was sprayed with an aerosol can. After some time Mr Carnes was able to free himself. He took the cover off his head and saw Mr Purcell whom he recognised. He threw a brick at him, and then went back into his shed and armed himself with a diving knife. The defendant then got into Mr Carnes' car and drove off with Mr Purcell.

Mr Carnes was injured as a result of being hit with the hammer by the defendant and by being kicked – either by the defendant or Mr Purcell, or both. Mr Carnes suffered cracked ribs and cracked teeth for which he required treatment. He has suffered since the commission of this offence. He is hyper-vigilant, he has also had a break with family ties because a family member does not wish to visit him given the isolated nature of his residence.

Mr Purcell pleaded guilty to this robbery and was sentenced on 20 April 2015. He refused to name his accomplice. He was convicted of one count of aggravated armed robbery and was sentenced to a period of 2½ years' imprisonment and was to be eligible for parole when he had served one half of that sentence.

The defendant is 36 years old. He has numerous convictions for offences of dishonesty. He has been to prison before and was last sentenced in this Court on 2 May 2008 when he was convicted of one count of aggravated burglary, one count of stealing and one count of unlawfully injuring property. He was ordered to serve a period of 18 months' imprisonment to commence at the expiration of a sentence that he was then serving.

This was a brazen and vicious armed robbery in company and there are no mitigating circumstances. Once again regrettably, the cause of the defendant's offending can be traced to addiction to methylamphetamines.

Given the defendant's record a sentence of imprisonment is clearly warranted and there is no basis given the serious nature of the crime for any part of that to be suspended. As her Honour noted in 2008, the defendant is a repeat offender and no remorse has been demonstrated.

I have considered the question of parity with Mr Purcell's sentence, but he was aged 20 at the time of the incident and had no relevant prior convictions. He was entitled to be treated as a young offender for whom rehabilitation is the foremost consideration. Moreover, he was remorseful and had pleaded guilty.

The defendant is sentenced to 4½ years' imprisonment and he is not to be eligible for parole until he has served three years of that sentence. I backdate the sentence by 330 days.

I make a compensation order pursuant to s 68 of the *Sentencing Act* 1997, the defendant is to pay by way of compensation to Martyn Carnes the sum of \$3,100, and to Youi Pty Ltd, Mr Carnes' insurer, such amount as may be assessed with the assessment to be adjourned to a date to be fixed.

I make the usual victims of crime levy order to be paid within 28 days of the defendant's release from custody.