

STATE OF TASMANIA v SCOTT PAUL CROSSWELL
COMMENTS ON PASSING SENTENCE

29 JULY 2016
ESTCOURT J

On 11 October 2005 the defendant, Scott Paul Crosswell, pleaded guilty to one count of indecent assault and one count of aggravated sexual assault. He was sentenced by Chief Justice Underwood to 3 months' imprisonment, wholly suspended on condition that he be of good behaviour for a period of 2 years. He was also ordered to perform 150 hours Community Service.

The defendant was scheduled to attend the Community Service Order Induction Program on 17 November 2005, 1 December 2005 and again on 1 March 2006, but failed to attend on each occasion, so he failed to engage with Community Corrections from the very outset.

On 15 March 2006 the defendant completed the Community Service Order Induction Program, but subsequently he had further failures to report on 22 March 2006 and 29 March 2006. On 29 August 2006, Probation Officer Langton met with the defendant, at personal inconvenience, explained the situation and the implications of breaching community service orders. The defendant said he wanted the opportunity to complete the orders and that he would be able to do so on Saturdays or via training programs at work. He was advised that further absences would constitute breach action.

He subsequently, on 29 September 2006, suffered a back injury which rendered him a disability pensioner. At that point he would have been unable to perform community service had he advised Community Corrections of his position. However it seems that he did not do anything about it, and when contacted by Community Corrections, he failed to tell them about his back injury.

A summons for the defendant was served on 27 April 2007 on the defendant's mother. On 15 May 2007, the Complaint 92904/06 was listed in the Hobart Magistrates Court. The defendant failed to appear and a warrant was issued for his arrest.

He was arrested on warrant on 8 July 2009 and was bailed to appear in the Hobart Magistrates Court on 23 July 2009.

On 23 July 2009 he failed to appear, and another warrant was again issued for his arrest.

He was arrested on warrant on 3 December 2009 and he was bailed by police to appear in the Hobart Magistrates Court on 17 December 2009.

He again failed to appear and a warrant was issued for his arrest. The court file was marked that he must not be bailed.

He was arrested on warrant and pleaded guilty on 1 February 2010, and the matter was committed to the Supreme Court for Sentence. He was released on bail.

On 8 April 2013, he finally appeared in this Court. The matter was adjourned. But he did not appear again and a warrant issued. He was arrested on 19 May 2016. Since then, to his credit, he has appeared on every occasion.

He had no prior convictions before the aggravated sexual assault and indecent assault charges for which he was sentenced by Underwood CJ, and he has had no brushes with the law since. He is 44 years old.

It seems to me that the root cause of all of this is the unsophisticated nature of the defendant, at the very least because, had he engaged with Community Corrections, no doubt something would have been arranged.

In all the circumstances I think the appropriate order for me to make is to cancel the community service order, and to fine the defendant the sum of \$500. I record a conviction of each of charges 1 and 2 on complaint 92904/2006.

I make the usual victim of crimes compensation levy order.