

COMMENTS ON PASSING SENTENCE**BRETT J**

Beverley Anne Banfield, you have pleaded guilty to one count of aggravated armed robbery and one count of assault.

The offences were committed on 17 March 2016. On that day, you and a friend stole some property from the Kmart store in the Eastlands Shopping Centre. The property, merchandise from the store, consisted of confectionary, toys, some clothing and a DVD player. It had an aggregate value of \$272.50. You carried out the theft by placing the property in a pram and then pushing the pram through the checkout without disclosing or paying for the property. However, your behaviour in the store alerted security officers. Two security officers waited for you at the front of the store. You rebuffed their request to search the pram and continued to walk away from the store. The security officers followed you. You were shouting abuse and threats at them as you walked away. After moving a short distance, you took hold of a syringe from your handbag and turned and threatened to stab the security officers with it. You held the syringe up in a threatening manner stating, "It's full of blood, and I'll fucking stab you." You then ran towards the officers, lunging at one of them and stabbing him with the syringe in the right side of his chest. The force of the stabbing motion caused the needle of the syringe to break away from its cartridge.

The officer stabbed by you was then taken away for treatment, but other store employees followed you. When you reached the car park, you threw the DVD player at the employees and then chased them holding the syringe over your head, and yelling threats. Shortly after this, as you attempted to run away, you were intercepted by police and arrested.

The syringe was subsequently located and found to be clean and free of blood. However, the officer who was stabbed with it required immediate medical treatment and has since been required to undergo a series of tests to exclude the possibility that he contracted illness as a result of the penetration of the needle. He obtained final confirmation six weeks ago that the tests have returned negative results. Understandably, he has found the intervening period extremely stressful. He is now constantly concerned about injury at work and this has made his work as a security officer difficult. There has also been a significant emotional impact on his wife.

I am prepared to accept that you did not engage in the shoplifting with the intention of using violence. However, you were in possession of the syringe and clearly you were prepared to use it to avoid apprehension. The act of actually stabbing the officer with the syringe was unnecessary to achieve your aim. Your actions have caused considerable suffering, particularly in the form of ongoing anxiety. Your use of the syringe as a weapon and using it to actually penetrate the body of the security officer is a particularly concerning and aggravating feature of these crimes.

You have been committing criminal offences on a regular basis throughout your life since you were 13 years of age. You are now aged 33. Your prior offending consists largely of dishonesty and drug offences, but also of a number of assaults, including assaults on police officers. You have been sentenced to imprisonment on several occasions. In 2001, when you were 18 years of age, you were sentenced to 12 months' imprisonment for the crime of aggravated robbery.

There are similarities between that crime and the crimes for which you are now being sentenced. On that occasion, you offered actual violence to a shopkeeper who attempted to prevent you from stealing her handbag.

I am told by your counsel, and it is clear in any event from your record, that much of your offending relates to a serious and long-standing problem with illicit drugs. It is asserted that, on this occasion, you were stealing the property to sell for money to enable you to buy drugs. In 2011, you were sentenced to a drug treatment order, but this order was prematurely cancelled by the court approximately one year later. Clearly drugs continue to be a major concern in your life.

You have five children. The four oldest are aged between 16 and 8 and reside with grandparents. Your youngest child is aged 11 months. That child is currently in foster care but may be returned to your partner, the child's father. You are pregnant with your sixth child, and are due to give birth within the next couple of months.

I regard this matter as extremely serious, particularly having regard to the actual use of the weapon and the impact of that violence on your victim. Your conduct clearly calls for the imposition of a significant period of imprisonment. I do not intend to suspend any of that sentence. There is little real evidence that you have made any serious attempt to address your drug problem and, until you are prepared to do so, I do not think that rehabilitation is a realistic sentencing aim. However, I will provide for your early release on parole in order to provide the Parole Board with the opportunity to respond to any meaningful commitment by you towards rehabilitation whilst you are in prison.

In fixing the length of the sentence, I will take into account that you have pleaded guilty. Whilst the plea cannot be described as an early plea, its entry has, at least, avoided the need for the Kmart employees, including the man you attacked, to give evidence. It is also appropriate to take into account that your child will be born while you are in prison and this will increase the impact of the sentence upon you. Your incarceration will continue your separation from your 11 month old child and, whilst I take that fact into account in mitigation, I also consider that the fact that you were prepared to commit these crimes, notwithstanding your obligation as the caregiver of that child, to be an aggravating factor.

Accordingly, the orders I make are as follows:

- (a) You are convicted of each of the offences to which you have pleaded guilty.
- (b) You are sentenced to a global term of 2 years' imprisonment. This sentence will be backdated to commence on the day of your arrest, 17 March 2016. I note that you have been held in custody since then.
- (c) Pursuant to s 17(2) of the Sentencing Act 1997, I order that you not be eligible for parole until you have served 15 months of that sentence.

You will pay a victims of crime compensation levies of \$100 within 28 days of your release from prison.