

STATE OF TASMANIA v CASEY MAREE BRYANT and JAMIE GLEN BRYANT

19 APRIL 2024

COMMENTS ON PASSING SENTENCE

ESTCOURT J

The defendant, Casey Maree Bryant has pleaded guilty to 19 counts of fraud contrary to s 253A *Criminal Code*, 41 counts of computer related fraud contrary to s 257B(c) of the Code, 23 counts of dishonestly acquiring a financial advantage contrary to s 252A(1) of the Code, 116 counts of insertion of false information as data contrary to s 257E of the Code and 5 counts of stealing by agent, contrary to s 229 and s 234 of the Code.

The offences occurred between 8 October 2012 and 10 February 2020. The defendant was aged between 29 years and 37 years at the time of the offending. She has no relevant prior convictions.

The defendant Jamie Glen Bryant has pleaded guilty to 6 counts of fraud contrary to s 253A of the Code which were committed jointly with Casey Bryant between 20 July 2018 and 10 February 2020. Mr Bryant was aged between 26 years and 28 years at the time of the offending. He has one relevant prior conviction of considerable age, namely for burglary and stealing in 2000.

The State's statement of facts is as follows.

Mr Bryant is an experienced shearer by trade and travels within Tasmania and interstate. The defendants were married at the time of their offending and lived together at [address stated] with their three children.

The defendant, Casey Maree Bryant commenced full time employment with the Central Highlands Council on 23 June 2008 as an Administrative Officer. She worked at the Council's head office at 6 Tarleton Street, Hamilton. Following a restructure, on 7 March 2013, her position was changed to Senior Administrative Officer after additional responsibility was given to her.

Between 11 December 2015 and 4 June 2017, the defendant was on maternity leave. She returned to work part time on 5 June 2017, working three days per week.

The defendant's position included being responsible for purchasing goods, accounts payable, relief payroll, management of internal IT issues, an event known as "Bushfest" as well as other duties including customer service and telephone enquiries as required. She was a trusted employee, and one the Council relied upon heavily for her knowledge of systems and processes.

Although the Council employed several administration officers, the responsibility for arranging the purchase of goods required by the Council, processing purchase orders and paying accounts from suppliers fell solely within the defendant's role. Normally a council manager would request the defendant create a purchase order for specific items and that same person was required to authorise the invoice prior to any payment being made. For accounting purposes, all purchase orders were allocated a unique number.

Cheques were the Council's normal method of payment up until about mid 2013 after which time, accounts were paid by electronic funds transfer from the Council's Commonwealth Bank account. In her role, the defendant was authorised to sign Council cheques but each cheque was required to be countersigned prior to payment. Cash payments were not an authorised mode of payment.

Except on rare occasions, there was no need for the defendant to travel to businesses premises to obtain goods she ordered for the Council as this was not her role. The Council had another employee who travelled to Hobart from Hamilton each Tuesday to collect council supplies. The Council operates a financial database called "Navision". It is a general ledger database that records invoices raised and payments made for those invoices for each of the Council's suppliers. The type of information recorded in the database includes the date, document type and number, supplier, purchase order number, payment details (cheque number/EFT number), amount and user ID. The user ID's were unique to each council employee who accessed and used the database.

On 11 February 2020, Abigail Grant from Bunnings Group Ltd alerted the General Manager of the Council, Mrs Lyn Eyles, to two suspect purchases at Bunnings Glenorchy that had been charged to the Council's account on the previous day, after she had undertaken an audit. The audit revealed that two council purchase orders had been provided, both numbered 13749 and signed by the defendant, and which involved the use of a Bunnings PowerPass card issued to the defendant.

Investigations revealed that the defendant had set up a Bunnings PowerPass account (issued to professional tradespeople/organisations with an ABN) in the name of the Central Highlands Council but the card was issued in her name. Each time a purchase was made using the card, the amount was automatically debited to the Council's account, and thereafter paid by the defendant using Council funds once the account statement was received. The defendant was never authorised by Mrs Eyles to have a PowerPass card issued in her name.

The first transaction related to the purchase of a Victa lawn mower valued at \$835.05 on Monday, 10 February 2020, a public holiday. A male person signed for the lawn mower in the name of Nathan Lovell. Nathan Lovell is an employee of the Council but was not responsible for the purchase. Subsequent investigations established that the male person was the defendant, Jamie Bryant, as he was captured on CCTV footage making the purchase.

The second transaction, occurring 40 minutes after the first, related to the purchase of tools, hardware, barbecue accessories, pet bowls, herbicide, a Dewalt 18-volt cordless air inflater and a water feature valued at \$924.89. Again, CCTV footage showed the defendant Jamie Bryant making the purchase and pushing a trolley out of Bunnings with the goods in them.

On 24 September 2020 police conducted a search of the defendant's home and they located the lawnmower and the air inflater in a garden shed. On 30 December 2020, Jamie Bryant was formally interviewed, and he admitted that he was the person responsible for the purchases, and that he had signed for the lawnmower as Nathan Lovell, on the instructions of Casey Bryant. He stated that she had given him a list on his phone of items to collect and said that she would fix it later.

The following morning, Mrs Eyles approached the defendant Casey Bryant and asked her who within the Council, had requested her to make out the two purchase orders. The defendant

stated that she did not know and would need to think about it and claimed that Bunnings must have made a mistake. Shortly after, she admitted to Mrs Eyles that she was responsible for purchasing the items. She stated that she did not know what had come over her, that she was humiliated and embarrassed and was worried how this would affect her family.

That afternoon, Mrs Eyles advised the defendant that her employment was terminated and that the police and the Council's auditors would have to be involved in the matter. She became inconsolable. She provided a resignation letter on 13 February 2020, but it was not accepted as a termination letter had already been prepared.

Between 14 February 2020 and 25 February 2020, an internal investigation revealed that there were several other suspect invoices from Bunnings which had been paid for by the Council and certified by the defendant as being correct for payment. In addition, upon reviewing other accounts that had been paid by the Council, it was discovered that the defendant created unauthorised purchase orders to enable the purchase of items from Beaurepairs, Brierley Hose & Handling and Battery World for her and her family's own use. In addition, Council became aware of the unauthorised use of a Council United Fuel card, number 7897 2500 0090 1582, for unleaded petrol purchases, when the card was related to a Council owned diesel vehicle.

As a result of the initial investigation, a more extensive and detailed audit was undertaken by the Council. This identified numerous invoices from multiple vendors where payments were made for items that were never authorised nor received by the Council. It found that the defendant was fraudulently creating purchase orders to enable the purchase of items for her, the defendant Jamie Bryant or her children's personal use, and once the invoice from the supplier was received, she authorised payment for the items without seeking the required authorisation from the appropriate council manager.

In the large majority of cases, the defendant created the unauthorised purchase order using the number of a legitimate one or used the same number on more than one of the purchase orders. All of the suppliers were suppliers that the Council generally did business with, with the exception of Top Gun Shearing which supplies shearing equipment, accessories and clothing.

In some instances, copies of the fraudulent purchase order, cheque and supplier invoice were not retained in Council's records which added to the complexity of the investigation. Where the supplier's invoice was retained, it was signed and stamped "processed" by the defendant.

In order to conceal her fraud, the defendant falsified data in the Council's computer systems so that the items purchased by her were costed to various legitimate council activities and departments. In all of the suspect transactions identified by the Council, the defendant's unique user ID appeared in the Navision database as the person who processed the invoices and payments.

The audit also revealed that the defendant Jamie Bryant was involved in his wife's offending by presenting Council purchase orders prepared by her, which he knew were unauthorised, to Bunnings, Beaurepairs and Harvey Norman and/or collected goods from these businesses for his or his family's personal use. His conduct also extended to using the false identity of a Council employee, Nathan Lovell, which the State asserts was an attempt to conceal his wife's fraud on her employer.

The Council undertook an audit of their United Fuel card accounts and found another four cards that had been used by the defendant and her husband, Jamie Bryant, to obtain fuel for their private vehicles between 3 July 2014 and 9 February 2020.

The defendant Casey Bryant's offending occurred over a period of 7 years and 4 months in which she used \$150,246.69 of the Council's funds to pay for goods for her and her family's personal use.

Jamie Bryant was jointly responsible for \$6,653.96 of his wife's offending, which occurred over a much shorter period of 19 months.

On behalf of the defendant Casey Bryant, I was informed of the following matters by her counsel.

She is aged 40, her date of birth 19 September 1983. As already noted, she is married and she and her husband live at Bothwell in mortgaged premises. The couple have five children aged 21, eight, seven, and twins aged three months. The last four children are dependent. The defendant Casey Bryant has not worked since her employment was terminated by the Council. Her husband is the family's sole income earner and is employed as a shearer.

She was born in Hobart. At the time, her parents were young, both aged 17. Shortly after the defendant was born, the family moved to Queensland. At the age of 12 the defendant and her parents returned to Tasmania and settled in Bothwell. The defendant's parents took over the petrol station garage and shop at Bothwell. She attended Bothwell District High School completing grade 10. She then completed grade 11 at Claremont College which she attended by travelling by bus. She then obtained employment as a receptionist with Maypole Foods where she worked there for approximately 12 months. In 2006 she obtained employment with United Petroleum where she worked until 2008.

She met the defendant Jamie Bryant when they both attended Bothwell District High School. They entered into a relationship which was more off and on than stable. She gave birth to her eldest daughter when she was aged 18. She was not in a relationship Jamie Bryant at the time that she gave birth. She was a single parent for five years until 2008 when he returned from the mainland from shearing and the pair resumed their relationship.

In 2008 the pair purchased the house at Bothwell for \$170,000.00 subject to a bank mortgage. That year she obtained employment with the Central Highlands Council at their Hamilton office where she worked five days a week full time.

In 2010 she and Jamie Bryant tried to have another baby without success. They desperately wanted to have further children. She alone was in charge of the family finances. At the time that the pair were seeking to conceive a further child, they had a mortgage over their property. In addition, Jamie Bryant was a shearer and he was involved in shearing in the southern and northern parts of the state and later in the year would head to the mainland and shear on properties in Victoria. His motor vehicle was the subject of a car loan. The defendant Casey Bryant was the primary family carer and her motor vehicle was also the subject of a car loan.

In 2012 the parties were still desperate for another baby and the defendant Casey Bryant came up with the idea of enrolling in an IVF course. The IVF treatment went longer than the

defendant originally envisaged and lasted for three years. During the course of the IVF treatment, she had two miscarriages and an ectopic pregnancy.

At the time that the parties entered into the IVF program they were financially stressed, living from week to week. The defendant Casey Bryant was working full time. Jamie Bryant's work was classified as casual as there would be breaks in his work depending when farmers wanted their sheep shorn. He also played Australian rules football on weekends with the local football side. He incurred a number of injuries that would stop him working for several days. On one occasion he sustained a football injury which saw him off work for nine weeks and his income was supplemented by a policy of insurance that did not reimburse at the full rate of his loss of income.

At the time the parties started the IVF program, the family's financial expenditure included fixed payments for mortgage payments and two car loans. Over and above that expenditure they paid many thousands of dollars in IVF fees per IVF cycle. The IVF fees had a debilitating effect on the family finances. The defendant did not inform her husband of the exact cost of the IVF expenditure.

The IVF cycle failures, together with the two miscarriages and the ectopic pregnancy had a massive effect on the defendant's mental health which saw her suffering from anxiety and depression. The parties kept their IVF involvement a secret and therefore had no support from friends or family who were none the wiser.

It was during the IVF programs that the defendant commenced her offending. The goods, items, and fuel obtained went to the benefit of the family.

The defendant's second child was born as a result of the IVF. The couple had a break from IVF from late 2014 until April 2015. They engaged in one more round of IVF in April 2015 and transferred two embryos and that is when their second daughter was born. Their third daughter was conceived naturally a few months after their second was born. The defendant returned to work around mid-2017. She continued to offend until her employment was terminated in 2020.

Since the loss of her employment the defendant has not been able to return to work. The family has been reliant upon Jamie Bryant's income. Once their second eldest daughter turned six the defendant was contacted by Centrelink and was told that she had to return to the workforce otherwise she would lose the Centrelink benefit for her daughter. Due to her prosecution the defendant has not sought further employment and has therefore lost her Centrelink benefit. The twins were born in November 2023.

The defendant has not returned to work for two reasons. The first was the public opprobrium from the general community once it was learnt of her offending and loss of employment. The family still lived in Bothwell. The Central Highlands Council is one of the bigger employers in the community and the information about the defendant's employment termination quickly moved through the community and she was shunned by many people. The second reason that she has elected not to seek employment opportunities out of the community is that she would have to inform any potential employer of the pending charges.

The defendant is determined to reimburse the loss holder for her actions. However, the loss of income and her inability to make good the loss sustained means that it will be "some little time"

before she and her family are in a better financial position to enter into a repayment agreement to reimburse the loss holder for their financial loss.

As noted, in November 2023 the defendant gave birth to twins. This pregnancy was not planned. The defendant went to her GP as she felt rundown and put it down to her pre-existing thyroid issues. The subsequent blood test and scans revealed that she was carrying twins. Since being born, the defendant has not missed a day of care with the twins. The first time that the defendant had been separated from the twins was 15 February this year whilst attending Court. They were then looked after by her eldest daughter who had to take the day off work to care for them.

The defendant is in a heightened state of concern about what will happen to their care if she receives an immediate term of imprisonment as the family dynamic is as follows.

- (a) Jamie Bryant is the sole family breadwinner and works full time.
- (b) The defendant's parents both work full time and are not available to care for the twins.
- (c) The defendant's eldest daughter works full time seven days a week and five days the alternate week.
- (d) There is no day care in Bothwell.

If the defendant is incarcerated, it was submitted that the newly born twins would suffer as a consequence.

Counsel for the State made the following written sentencing submissions:

"It goes without saying that this is a serious fraud committed by the defendant Casey Bryant on her employer, in whom you have heard placed an enormous amount of trust to manage the Council's accounts and the purchase of items required. The defendant's breach of trust is a significant aggravating factor.

Both defendants, by their frauds have taken away funds from the Central Highlands community and ratepayers. The fraud extended over a lengthy period and involved planned and calculated conduct whereby she used her extensive knowledge of the Council's systems to manipulate their database to conceal the fraudulent transactions. She did not desist as her offending only ceased when the discrepancy in the Bunnings account was detected.

Both defendants, through their counsel, indicated that they would plead guilty to 181 of the 204 counts contained on the indictment on 28th November 2022. The matter was then prepared for trial on the remaining 23 counts and listed for trial in the February 2024 sittings. A formal indication that all matters would resolve as a plea of guilty was given on 22nd January 2024. It is accepted that there is utilitarian benefit in that it has saved the State from conducting a 5 day trial.

Mrs Bryant has recently given birth to twin boys. They were born in about mid November 2023 and are approximately 3 months old.

It is well accepted that hardship to dependents is not a significant mitigatory factor (*Gibbins v White* [2004] TASSC 8 per Crawford J at [19] referring to *Sullivan v R*

9/1975; *R v Georgiadis* (No.5) [2001] TASSC 88; Boyle (1987) 34 A Crim R 202). As Crawford J stated in *Gibbins v White* at 19:

"If the contrary was the case, courts would regularly be considering not the necessary punishment for the offender but the extent to which his or her family might be prejudiced by it. Part of the price to pay when committing a serious offence is that imprisonment may well cause hardship to others, and in most cases it should not be one of the factors which can affect what would otherwise be the right sentence."

Only in cases where there are exceptional circumstances, when imprisonment will result in children being left to fend for themselves without parental supervision or support, and the hardship is sufficiently extreme and goes beyond that which inevitably results to a family when [a family member] is incarcerated, will it operate in mitigation. [See *Boyle v R* (1987) 34 A Crim R 202 at 205; *R v Maslen and Shaw* (1995) 79 A Crim R 199 at 209)].

In the present case, it is submitted that this is not a situation where Casey Bryant's primary care of their twin boys should mitigate against what is otherwise an appropriate sentence, given the serious nature of her offending and the need for deterrence and denunciation.

It is also important to note that Casey Bryant became pregnant about three months after she provided instructions to her lawyer that she would plead guilty to the bulk of the charges contained on the indictment, knowing that the charges were serious. In any event, given the likely sentencing outcome for Jamie Bryant, it is submitted that he would be able to care for the twins."

Counsel for the State submitted that the case of Casey Bryant was too serious for the imposition of a home detention order. As to that submission I instruct myself in accordance with the principles to be derived from *Director of Public Prosecutions v King* [2020] TASSCA 8.

As to the state's submission as to the timing of the birth of the twins, I note that it was not disputed by the State that the pregnancy was not planned.

The general rule is that hardship to an offender's dependants is not a relevant sentencing factor unless exceptional circumstances are present.¹ Hardship has long been seen by Australian courts as a part of the price to be paid by offenders for committing an offence.² Were Courts to frequently take hardship to dependants into account as a sentencing consideration, injustice could arise as offenders with families received sentences that were less severe than those without families, only by virtue of having a family.³

In *Markovic*,⁴ the Victorian Court of Appeal provided the following summary of justifications for the 'exceptional circumstances' rule:

¹ *Gibbins v White* [2004] TASSC 8, [19]; *R v Wirth* (1976) 14 SASR 291, 296.

² *McCulloch v Tasmania* [2010] TASSCA 21, 5 [19] per Wood J; *McAree v Barr* [2006] TASSC 37, 4 [21]; *Boyle v The Queen* (1987) 34 A Crim R 202, 204-205.

³ *Gibbins v White* [2004] TASSC 8, [19].

⁴ *Markovic v The Queen* (2010) VR 589.

- It is almost inevitable that imprisoning someone will have an adverse effect on the person's dependants.
- The primary function of the sentencing court is to impose a sentence commensurate with the gravity of the crime.
- To treat family hardship as the basis for the exercise of leniency produces the paradoxical result that a guilty person benefits in order that innocent persons suffer less.
- To treat an offender who has needy dependants more leniently than one equally culpable co-offender who has none would 'defeat the appearance of justice' and be 'patently unjust'.⁵

The authorities demonstrate broadly that cases where offenders care for a child with serious disabilities or medical conditions are more likely to be held as exceptional in sentencing appeals.⁶

However, exceptional hardship has also been found to be present in cases where, as here, the offender is a mother of young children and there are no alternative carers.⁷ It is clear that relevant considerations may involve hardship on the offender and/or hardship on the child or children.

In *Stewart v the Queen*,⁸ Franklyn J observed that exceptional hardship:

"...may be taken into account when the degree of hardship that imprisonment will involve is exceptional or when the offender is the mother of young children, or where imprisonment will result in the children being deprived of parental care. In all cases, however, it depends on the gravity of the offence and the circumstances of the case."⁹

In *R v Murray*,¹⁰ Carruthers AJ also described as 'exceptional hardship' the situation where the imprisonment of a young mother would result in her children being deprived of parental care.¹¹ In *Georgiadis*,¹² Underwood J (as he then was) also held that an offender who was the mother of young children could satisfy as an exception to the general rule.¹³ That case concerned a number of offenders who were facing significant sentences of imprisonment for charges of conspiracy, two of whom were the parents of a three-year-old child. The Court was informed that there would be no-one to look after the child should both parents be imprisoned.¹⁴ His Honour determined that:

"...a long separation between a mother and her three year old only child is likely to have a deleterious effect upon the child, one that may have lifelong adverse consequences. Although I accept the general rule that hardship upon a prisoner's dependants is not a mitigatory factor and understand the sound reasons for such a

⁵ Ibid 591-2.

⁶ Tamara Walsh and Heather Douglas, 'Sentencing Parents: The Consideration of Dependent Children' (2016) 37 *University of Adelaide Law Review* 135, 160.

⁷ Ibid 152; *Michael v The Queen* [2004] WASCA 4.

⁸ (1994) 72 A Crim R 17.

⁹ Ibid 21.

¹⁰ [2000] NSWCCA 430.

¹¹ Ibid [27].

¹² *R v Georgiadis* [No 5] [2001] TASSC 88.

¹³ Ibid [29].

¹⁴ Ibid.

general rule, I have come to the conclusion that as both parents are going to prison for the commission of serious crimes, hardship on this child should be taken into account upon the imposition of sentence upon the mother."¹⁵

His Honour suspended the last 15 months of the mother offender's four-year and three-month sentence of imprisonment.

In *Wilkie v Cohen*,¹⁶ Blow CJ found that exceptional hardship was present where the offender had four dependants including two young children, a teenage stepdaughter, and significantly a partner who had been incapacitated in a motor vehicle accident.¹⁷ His Honour found these circumstances to be a mitigating factor, although he noted that: "...it does not necessarily follow that it was a critical factor or even a strong one."¹⁸

Although hardship on others is *generally* not a sentencing factor, the effect of such hardship on the offender themselves has been found in this Court to be a legitimate and relevant factor in sentencing. In *McCulloch*,¹⁹ Wood J endorsed a less severe sentence than would have otherwise been imposed due to the offender's circumstances as the mother and primary carer of a six year old child.²⁰ Her Honour described the situation as 'parental deprivation' and noted that it was '...plain that as a consequence of the appellant's circumstances a gaol sentence would be a more severe penalty for her than for other offenders, and a lengthy sentence particularly difficult.'²¹ Informing this view was a psychologist's report which described the offender as 'most distressed about the adverse impact of imprisonment and the separation that would entail for her daughter'.²² (There is no such report in the present case but "parental deprivation" would be a fairly obvious consequence of separation of a mother from five month old twins.)

In that case, the appellant had stolen over \$1.2 million dollars from her employer over approximately three years. The majority of Blow CJ, Porter J and Wood J ordered that the appellant's sentence of 7 years' imprisonment with 5 years' non-parole was quashed and substituted with 6 years' imprisonment and 3.5 years' non-parole.

The defendant's parents work full-time. Jamie Bryant works full time. Casey Bryant's eldest daughter works full time 12 days out of a fortnight. There is no day-care in Bothwell where the couple live. In short, Casey Bryant is the primary carer for four children under the age of ten, including the two newborn babies.

As to sentencing for crimes such as those committed by the defendant Casey Bryant, I note the following in recent years.

In *Broomhall v Tasmania* [2023] TASCCA 2, the appellant, Jacqueline Broomhall, misappropriated a substantial sum of money in the course of her employment in the Tasmanian Health Service. In September 2022 she pleaded guilty to one count of insertion of false information as data, one count of computer related fraud, two counts of forgery, and two counts

¹⁵ Ibid [30].

¹⁶ *Wilkie v Cohen* [2016] TASSC 14.

¹⁷ Ibid [12].

¹⁸ Ibid [15].

¹⁹ *McCulloch v Tasmania* [2010] TASCCA 21.

²⁰ Ibid [24].

²¹ Ibid [21]-[23].

²² Ibid.

of uttering. The total amount misappropriated by her was \$398,534.28. She misappropriated money on over 300 occasions during a period of a little over eight years, between November 2008 and February 2017. On 23 September 2022 Jago J sentenced her on the six charges to three years' imprisonment, with one year of that sentence suspended, and a parole ineligibility period of one year. That sentence was held not to be manifestly excessive.

In *Rachel Walden* 16 Feb 2023 (Blow CJ) was a case where the defendant was a school finance officer who misappropriated \$142,700. She had suffered sexual abuse as a child and had a psychiatric illness which contributed to offending. She had four children aged between 13 and one year old. She was sentenced to a home detention order for 10 months.

In *Michael Wisby* 26 April 2023 (Brett J) was a case where the defendant was the treasurer of a not-for-profit sporting association who committed computer related fraud and stealing over 16-month period involving a total of \$127,459.00. He was a 76-year-old man with no prior convictions and a wife in ill-health who required constant care. The significant impact on his sick wife of a period of incarceration amounted to an exceptional circumstance. He suffered from a major depressive disorder and a long-standing gambling disorder. He repaid money to the sporting association but only after successful legal action was taken by it. The proceeds of crime was spent on gambling and living expenses. He was sentenced to 18 months' home detention.

In *Jason Nicholls* 5 Dec 2023 (Blow CJ) was a case where the defendant was the manager of a car-rental company who misappropriated \$134,230.99 over about three and a half years. The proceeds of crime were used to finance gambling, food, and entertainment. He was a single 41 year old man with no children. He had not repaid the money, did not stop before he was caught and was not a first offender. He was sentenced to two years imprisonment with a parole ineligibility period of 12 months.

The defendant Jamie Glen Bryant is aged 42. His date of birth is 10 February 1982. He was born in Hobart and has lived in Bothwell all his life except for travelling to the mainland for work commitments. He attended Bothwell District High School. He then attended Claremont College where he completed year 12 which enabled him to obtain his higher school certificate.

When he finished school he travelled to Flinders Island with his two uncles who were shearers and he started work as a shed hand and after the shearing had been completed, the farmer kept him employed for another six months as a farm hand where he learnt general farm related activities.

After he returned to Tasmania he contacted a number of shearing contractors and obtained employment as a wool handler at Campbell Town where he worked for 12 months and during lunch breaks he started to learn how to shear sheep. He then obtained on the job training where he worked as a wool handler with part time work as a shearer.

The defendant then contacted contractors in Western Australia where he travelled to work as a wool handler and junior shearer and he worked there for 15 months. Upon returning to Tasmania he was employed as a shearer at Bothwell. During the course of that employment he resumed his relationship with the defendant Casey Bryant and they purchased their house at Bothwell where they lived there with their four year old daughter.

The defendant continued to work for the next 13 years as part of a shearing team, generally in the Bothwell area. He also did fill in work in the north of the state in Campbell Town, Avoca and Cressy where he would leave home at 5:00am and return home after 7:00pm on each day that he worked. At the end of the shearing season in Tasmania he would travel to Victoria where he would work as a shearer during the month of October.

The defendant is employed as a shearer on a casual basis. He explains that he cannot shear when the sheep are wet, as such he could be without work for up to three weeks at a time due to inclement weather. He is paid after the sheep in each shed are shorn and his income is based on the tally of sheep shorn.

In the past four years the defendant has been employed with a contractor in the Derwent Valley where he works on properties from Bushy Park to Ouse. He lost his driver's licence and is not due to have it returned until July. His wife has been taking him to and from work whilst he has been without his licence. He has been reliant upon her to get to and from work.

Recently the defendant started his own business, Bryant Shearing, and he is engaged to work on six properties with his team of shearers and wool handlers. He can employ up to 10 employees at a time.

The defendant and his family intend to remain in the Bothwell premises as this location is central to the defendant retaining work as a shearer.

During the course of their relationship the defendant has provided his income to his wife and she runs the household financial affairs. He does not involve himself in the financial affairs of the family. He was not aware of the true cost of the IVF programs other than that it costs thousands of dollars. He was not aware of the extent nor the duration of his wife's offending until she had been charged with these offences.

Turning then to sentence, I am of the view, having regard to all of the matters put to me against and on behalf of the defendant Casey Bryant, having regard to the principles relating to family hardship amounting to exceptional circumstances and the principles touching the appropriateness of the imposition of home detention orders, that this is a case in which such an order can and should be imposed. In my view, such an outcome is not inconsistent with sentences imposed in a number of broadly comparable cases by judges of this Court. Guideposts are evident.

I impose a single sentence. The defendant Casey Bryant is sentenced to 18 months' home detention. All of the core conditions contained in s 42AD (1) of Part 5A of the *Sentencing Act 1997* are imposed.

With specific consideration to s 42AD (1) (g) and (h), the following conditions are added to the order:

- you must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device
- during the period that you are required to submit to electronic monitoring:
 - a) you must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring

- b) you must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring
- c) you must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, including in relation to the installation, attachment or operation of a device, or a system, used for the purposes of electronic monitoring by:
 - (i) a police officer;
 - (ii) a probation officer or proscribed officer; or
 - (iii) another person whose functions involve the installation or operation of a device, or a system, used for the purposes of electronic monitoring.

The following conditions are added to the order:

- you must, during the operational period of the order, remain at [address stated] all times unless approved by a probation officer
- you must attend the Community Corrections office at Level 1, 75 Liverpool Street, Hobart for induction onto this order. You must attend this service for induction during normal business and no later than 10:00 am on the business day after this order was made.
- you must, during the operational period of the order, maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times
- you must submit to the supervision of a Community Corrections officer as required by that officer
- you must not, during the operational period of the order, take any illicit or prohibited substances. Illicit and prohibited substances include:
 - (a) Any controlled drug as defined by the *Misuse of Drugs Act* 2001;
 - (b) Any medication containing an Opiate, Benzodiazepine, Bupropion, Hydrochloride or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication.

In addition, I note that the defendant Casey Maree Bryant has been assessed as suitable for the imposition of community service. She has advised Community Corrections that she would be able to comply with the conditions of community service. Notably, she reported she could attend weekend rosters without hindering her parental obligations, as her adult daughter would be responsible for her parental obligations during this time (as I imagine would be her husband on occasions when he was not working).

I make a community correction order with an operational period of three years from today. The relevant condition of the order will be that during that period, the defendant Casey Maree Bryant undertake 210 hours of community service.

Taking into account each of the matters I have set out in these comments as put against and on behalf of the defendant Jamie Glen Bryant, I impose a single sentence of six months' imprisonment, which sentence is wholly suspended on condition that he commit no offence punishable by imprisonment for a period of 18 months.

Pursuant to s 68 of the *Sentencing Act*, I make compensation orders as follows:

- Jamie Glen Bryant pay \$4,894.02 to the Central Highlands Council;
- Casey Maree Bryant pay \$5,811.88 to the Central Highlands Council;
- Casey Maree Bryant pay \$127,188.49 to AIG Australia Limited.