

R v JAMES ARTHUR BROOKS
COMMENTS ON PASSING SENTENCE

20 FEBRUARY 2003
UNDERWOOD J

James Arthur Brooks, you have pleaded guilty to one count of murder and three counts of aggravated assault. All the crimes were committed at Smithton on the evening of Sunday 24 March 2002.

The victim of the murder was your former de facto wife. You and she first started to live together about 10 years ago. During that period, there were occasions when the two of you separated, the last being a few weeks before the commission of these crimes.

After the last separation, the deceased became friendly with another man. They were out together at a hotel on Friday 22 March. You saw them there and I find that you became jealous.

In the early hours of Saturday morning you went around to the deceased's house and forced your way in. Inside, you found your former partner and this other man in the bedroom and caused a scene which ended with you being put out of the house. On the afternoon of the same day, you again went around to your former partner's house, but this time you were more conciliatory. The occasion for your visit was your son's first birthday party and when there, you apologised to your former partner for your behaviour, told her that you would like to resume the relationship, and that you loved her. She made it clear to you that the relationship was at an end this time.

I find that during the next day, you brooded over this situation and in the early evening made the decision that you would go to your former partner's house and kill her and then yourself. You wrote a suicide note and left it at your flat. You then went around to the house, either taking with you an Army bayonet with an 8 inch blade or going to a shed at the house and getting it from there. It matters not in the sentencing process whether you took it from your house or took it from the shed because you clearly went to the house with the intention of committing the crime of murder.

You went inside the house and stabbed your victim, savagely and violently many times. There were eight substantial stab wounds to her chest, plus others to the head and neck. She must have died instantly, or nearly instantly, from these stab wounds, some of which penetrated the whole of her body. You then cut yourself about the neck and once in the chest, but not very deeply. You telephoned for her parents to come around and get the children and to their horror they arrived and saw her dead, lying in a pool of blood, with you prostrate on her body. They telephoned the police and when they arrived, you went berserk. You ran out of the house, brandishing the bayonet at a male and a female police officer. Had one of those officers, Constable Bryan, not jumped back quickly at one stage, he would have suffered a very severe injury, if not even death. There was a similar attack on Constable Burnie. I am told she is a slightly built female police officer who, according to the victim impact report had only been in the police force six months. She, too, managed to avoid serious injury or even death by jumping out of the way as you brandished this bayonet.

Showing commendable courage, the police officers approached you, told you to put the knife down, and when you refused to do so, they sprayed you with capsicum. This appeared to have no effect upon you as you eventually ran down the road to a jetty at the Smithton boat ramp. There you continued to act irrationally. You refused to put the bayonet down despite

repeated requests to do so. The two police officers were joined by another. With batons drawn, they approached you, but you responded by lunging at them and inviting them to shoot you. You almost killed one of the police officers by lunging the bayonet at his head. At one stage you forced two officers off the jetty. This violent conduct must have been very frightening for the police. They knew that you had already murdered and you were armed, irrational and plainly dangerous. They must have feared for their lives but, notwithstanding, they continued to try and calm you and get you to put the knife down. They are to be commended for their courage and the great restraint that they exercised in taking you into custody. Eventually, you dropped the knife, I think in the water, and then you were taken into custody.

As I said a moment ago, the Court must impose sentences to show that the authority of police officers will be upheld when they are acting in the lawful execution of their duty in the face of great danger. There will be additional punishment for these three very serious aggravated assaults, but I am mindful, however, that the sentences will be imposed at the same time as a sentence is imposed for murder, and I must have regard to the totality principle.

You are 29 years old, and have no previous convictions. From what Mr Mackie has just told me, you have apparently lived an unblemished life and you have a good work history. Your victim was 28 when she died at your hands. I find that this murder was an horrendous crime. It has cost your two children, now aged, I think, nearly two years and four years, the irreplaceable right that they had to be brought up by a loving mother and because you will be in gaol for a long time by reason of your heinous crime, you have really made those two little children orphans. As Mr Mackie rightly said a moment ago, you have impoverished their lives. This murder has also taken a daughter from loving parents and siblings and the impact of your wicked and premeditated crime on the family of the victim is most profound. It is detailed in the victim impact statements. They all relive the horrific events of a year ago every day of their lives. It seems to me there is a real prospect they will never recover. Similarly your criminal conduct has had a profound effect on the police officers you attacked. That, too, is detailed in the victim impact statements. Each of them believed they were going to die and all of them are suffering from severe emotional sequelae as a result of the crime you committed upon them.

I have concluded there really are no mitigating circumstances surrounding the commission of these crimes. They were all committed while you were in a fit of irrational jealous anger. I accept what Mr Mackie has just put to me that there is no history of violence in your background, but the circumstances surrounding the commission of these crimes are such that that counts for little, in my view. I also accept that you are now remorseful, but that is a likely consequence of your criminal conduct, and that too counts for little.

The following orders of the Court are made:

- 1 There will be a conviction on each count.
- 2 There will be a sentence of 23 years' imprisonment for murder, to commence on 25 March 2002, when you first went into custody and I fix a non-parole period of 13 years.
- 3 There will be a sentence of three years' imprisonment on the three counts of aggravated assault, to be served cumulatively upon the first sentence and I fix a non-

parole period of 18 months.

That is a total sentence of 26 years' imprisonment with a total non-parole period of 14½ years.

