

THE KING v ANNE-LOUISE WOODERS
COMMENTS ON PASSING SENTENCE

6 MAY 2024
BLOW CJ

Ms Wooders has pleaded guilty in the Magistrates Court to four charges of obtaining a financial advantage by deception, contrary to s 134.2(1) of the *Criminal Code* (Cth). Between 17 August 2016 and 4 October 2021 she received a total of \$167,871.64 from the Commonwealth by way of carer payment and carer allowance when she was not eligible for those types of benefits.

In late 2011 Ms Wooders commenced caring for a friend of hers named Kathleen Greta Hodgetts. Ms Hodgetts was a disability support pensioner. She apparently received a pension because she was suffering from agoraphobia, a back condition, and problems relating to the long-term use of illicit substances. The two women were living in the same residence, where Ms Wooders was caring for Ms Hodgetts. In October and November 2011 Ms Wooders completed and lodged claims for carer payment and carer allowance. She was entitled to those benefits because she was caring for Ms Hodgetts, and she commenced to receive them.

During 2016 Ms Hodgetts was the subject of a drug treatment order. She obtained permission to travel to New South Wales for rehabilitation treatment in a live-in facility in that State. Ms Wooders accompanied her to that place. However Ms Hodgetts left after two days and went to Victoria. As a result of her ceasing her rehabilitation treatment, a warrant for her arrest was issued in Tasmania. Because of that warrant she has never returned to Tasmania. She has lived in Victoria since August 2016. Ms Wooders has remained in Launceston ever since then. Because Ms Wooders was no longer caring for Ms Hodgetts, she became ineligible to continue to receive carer allowance and carer payment. She had a statutory obligation to notify the Commonwealth authorities of the change in her circumstances, and she knew of that obligation. She intentionally omitted to inform the appropriate authorities of the change in her circumstances. She continued to receive each of the two benefits. From that time onwards, she was therefore committing the offence of obtaining a financial advantage by deception.

Count 1 on the relevant complaint alleges that she committed that offence in relation to carer payments between 17 August 2016 and 7 December 2016. Count 2 on the relevant complaint alleges that she committed that offence in relation to carer allowance between 24 August 2016 and 30 November 2016. During the periods specified in those charges she committed the offences charged by intentionally omitting to tell the Commonwealth that she was not providing care for Ms Hodgetts.

After the periods specified in counts 1 and 2, Ms Wooders took positive steps to deceive the authorities by making false representations to the effect that she was caring for Ms Hodgetts. Count 3 on the complaint alleges that she committed the offence charged by obtaining carer payment and carer payment supplements between about 16 December 2016 and 4 October 2021 by representing that she was providing care. Count 4 alleges that she committed the offence charged by obtaining carer allowance and carer allowance supplements by representing that she was providing care.

There were several occasions when she made representations that are the subject of counts 3 and 4:

- On 14 December 2016 she spoke to a Commonwealth officer by telephone and requested an advance payment of her carer payment. As a result she was given a lump sum advance payment to cover expenses.

- In July 2017 Ms Hodgetts was asked to attend the Centrelink Launceston Service Centre for an interview to assess her ongoing eligibility for her Disability Support Pension. On 25 July 2017 Ms Wooders went to that centre in place of Ms Hodgetts, and said that Ms Hodgetts was in Melbourne receiving treatment and was unable to attend. She said that she administered medication to Ms Hodgetts, assisted her to attend all appointments and ensured that she was attending to her personal care and nutritional needs. She reported that Ms Hodgetts could be unreliable and experienced difficulty completing daily tasks and responsibilities.
- On 8 December 2017 Ms Wooders spoke to a Commonwealth officer by phone and applied for advance payments for both herself and Ms Hodgetts. She said that she and Ms Hodgetts were going to Perth together.
- On 9 December 2019 she spoke to a Commonwealth officer by phone and requested another advance payment to pay for flights to Western Australia. On this occasion her request was denied.
- On 11 June 2020 she applied by phone again for advance payments for herself and Ms Hodgetts. She described Ms Hodgetts as the lady that she was caring for. Advance payments were made to both of them.
- On 30 April 2021 she applied by phone for Ms Hodgetts' pension to be paid into her own bank account. That request was denied.

Throughout the periods to which counts 3 and 4 relate, payments of the two benefits were made to Ms Wooders when she was not eligible for them. She obtained those payments by deception by making the representations that I have referred to and refraining from telling the Commonwealth authorities that she was no longer caring for Ms Hodgetts.

Ms Wooders' offending came to light as a result of Ms Hodgetts updating her residential address. On 31 May 2021 she informed Centrelink that she was no longer living in Tasmania and was living at an address in Victoria. That triggered a review of Ms Wooders' benefits. On 7 June 2021 she was sent a letter requesting her to contact Centrelink to ensure that she was receiving the correct rate of payments. She did not respond.

On 30 June 2021 a Centrelink officer spoke to her. She said that she was still providing care to Ms Hodgetts, and that Ms Hodgetts had been delayed in Victoria as a result of COVID-19 restrictions.

On 6 July 2021 a Centrelink officer contacted the defendant who stated that she was going to Victoria for several days and that she was still providing care to Ms Hodgetts.

On 28 September 2021 Ms Wooders contacted Centrelink by phone and advised that she had not been providing care to Ms Hodgetts since August 2021. She requested cancellation of her carer payment. Her carer payment and carer allowance were cancelled. Since then she has received different forms of Centrelink benefits, namely Jobseeker payment and Newstart allowance.

Ms Wooders was aged 52 to 57 during the period of offending and is now 60 years old. In 1993, when she was 29, she was sentenced to 2 years' imprisonment in Western Australia on

85 counts of stealing and 8 counts of stealing as a servant. In 1998 in New South Wales, a magistrate fined her \$400 for obtaining money by deception. Over the years from 2014 to 2019 she has been convicted on nine occasions in Tasmania of driving whilst not the holder of a driver's licence. On two of those occasions she was ordered to perform community service.

If Ms Wooders had done the right thing and promptly notified Centrelink that she was no longer a carer, she would probably have been entitled to a Newstart Allowance from August 2016 until March 2020, and to JobSeeker Payment from March 2020 until October 2021. If she had satisfied the obligations for the receipt of those benefits, she would have received \$102,502.89 during the relevant periods. It cannot be said with certainty that she would have qualified for those benefits at the maximum rates throughout the relevant periods, but it appears to me that that would have been very likely. From Ms Wooders' perspective, the net loss to the Commonwealth would then have been only \$65,368.75. I think the appropriate course is to treat as a mitigating fact the fact that in all probability Ms Wooders would have been entitled to a substantial sum by way of benefits from the Commonwealth over the relevant period, possibly a little over \$100,000.

However, as a matter of law, she received \$167,871.64 in benefits to which she was not entitled and, to the extent that she has not already done so, she must be ordered to pay that amount back. She is now receiving a Newstart Allowance. Deductions are being made from that allowance at the rate of \$121.82 per fortnight to reduce her debt to the Commonwealth. It seems unlikely that that debt will ever be repaid in full. Ms Wooders lives in rented accommodation and does not appear to have any significant assets, though I understand that she has recently inherited some money.

She is now living alone. She suffers from depression and takes medication for that condition. She has been assessed as suitable for a home detention order.

One of the factors that I have to consider in imposing sentence is the degree of contrition that she has shown in relation to her offending. The author of the home detention assessment report reported a number of comments which, if correct, would suggest that she was showing no contrition at all. However her counsel has told me this afternoon that the author of the report appears to have misunderstood what Ms Wooders was saying. I do not consider that the conflict between the report and what counsel has put to me warrants adjourning this case for me to take sworn evidence. I will sentence on the basis of what counsel has put to me rather than take sworn evidence.

I consider that home detention is the most appropriate penalty in this case. If Ms Wooders had been considered unsuitable for home detention I would certainly have sent her to prison this afternoon. If she does not comply with the conditions of her home detention order, she can expect to be sent there.

Anne-Louise Wooders, I convict you on all charges and make a home detention order for an operational period of 12 months commencing tomorrow. The order will include conditions, all of which will apply for that operational period of 12 months, as follows:

- 1 You must attend the Community Corrections office at 111 Cameron Street, Launceston for induction into this order at 9am tomorrow.
- 2 You must not commit an offence that is punishable by imprisonment.

- 3 You must, during the operational period of this order remain at [address specified] at all times unless approved by a probation officer.
- 4 You must be at the home detention premises at all times, except if you are not on those premises because:
 - a) you are travelling to or from, or are at, premises seeking urgent medical treatment or dental treatment; or
 - b) it was necessary to leave the premises in order to avoid or minimise a serious risk of, the death of, or injury to, you or another person; or
 - c) with the approval of a probation officer or prescribed officer, given –
 - i) so as to enable you to comply with a special condition; or
 - ii) so as to enable you to seek or engage in employment; or
 - iii) so as to enable you to attend an educational or training course or activity; or
 - iv) so as to enable you to attend a rehabilitative or re-integrative activity or program; or
 - v) so as to enable you to attend a court; or
 - vi) for any other purpose approved by the probation officer or prescribed officer.
- 5 You must permit a police officer, probation officer or prescribed officer to enter the home detention premises.
- 6 You must permit a police officer to:
 - a) conduct a search of the home detention premises; and
 - b) conduct a frisk search, within the meaning of the Search Warrants Act 1997, of you, at the home detention premises or at any other place or premises; and
 - c) take a sample of a substance found on the home detention premises or on you.
- 7 You must comply with any reasonable and lawful directions of a probation officer or prescribed officer, including any directions of you as to the kind of employment, or the place of employment, of yourself.
- 8 You must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device.
- 9 During the period that you are required to submit to electronic monitoring:
 - a) you must not remove, tamper with, damage 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; and
 - 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 prescribed 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.

- 10 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.
- 11 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.
- 12 You must submit to the supervision of a Community Corrections officer as required by that officer.

I order you to make reparation to the Commonwealth by paying the sum of \$162,848.08.