

STATE OF TASMANIA v NM
COMMENTS ON PASSING SENTENCE

11 JUNE 2024
JAGO J

NM, on 21 February 2024, you committed the crime of armed robbery. You were 15 years of age at the time and living without any family support. You entered the Invermay IGA. Your purpose was to steal food as you were hungry. You had with you a bottle of alcohol. You also had with you a black handled steak knife concealed in your shorts. You placed a packet of chips down your shorts. This was observed by the shop owner. He approached you and asked you to remove them. You became angry and pulled the knife out. You moved towards the complainant and another employee who was also in the shop area. The employee ran to the front of the shop and called police. The shop owner backed away from you. You continued to advance towards him with the knife still in your hand and held out towards him. You then placed the knife back into the waistband of your shorts and walked towards the front of the store. There were other customers in the store at the time. You approached the shop owner a second time with the knife in your hand and threatened him. You said "I'll slit your throat". The shop owner moved backwards behind a shelf. You moved around the shelf and continued to advance towards him still holding the knife out in front of you. You were yelling at the shop owner. You got to within approximately two metres of him. You then went to exit the store. As you did so you made a third advance towards the shop owner, this time yelling and swearing at him and saying "I'll cut you up".

Police located you shortly after in the nearby area. You were observed by police to remove the knife from the waistband of your shorts and throw it to the ground. You were arrested. You have been remanded in detention since 21 February 2024. The value of the chips stolen was \$2.50. When spoken to by police you made full admissions. You told them you had gone to the IGA to steal food because you were hungry. You admitted pulling the knife out and advancing towards the staff member. You admitted having "another go" at the staff member as you went to leave the shop.

About two weeks before this crime, you had been before the Youth Justice court for matters of dishonesty. The matters were dealt with by way of dismissal and reprimand. In July 2023 you were before the Children's court in Victoria for a matter of affray and use controlled weapon without excuse.

I have had the benefit of a Youth Justice pre-sentence report and also a forensic psychological assessment report prepared by Dr Georgina O'Donnell. The reports indicate that you experienced a very difficult childhood. You were often left unattended and unsupervised from a young age due to your mother's work commitments. Since you were approximately 11, you have lived in difficult circumstances, experiencing homelessness and without the benefit of any real support or guidance from your family. Consequently, you rarely attended school and have had a limited education. You have used alcohol and cannabis regularly from an early age and have spent time associating with others who do likewise. When you were 14, you were hit over the head with an iron bar during a fight. It is possible you sustained some form of acquired brain injury as a consequence of this although it has never been formally diagnosed. Your alcohol and drug use has been to the extent that you have been admitted to hospital for drug-induced psychosis on occasion. Your childhood deprivation has led to post-traumatic stress.

Pleasingly, both reports are quite positive in terms of your future prospects. Whilst you have been in detention your behaviour has stabilised and you have made positive progress. You are expressing a desire to maintain better health, a stable lifestyle and obtain employment. In Dr

O'Donnell's opinion your upbringing has resulted in cumulative trauma and your heavy substance use is a symptom of that underlining mental health difficulty.

I have read the report from Community Corrections. They recommend the imposition of some community service hours which will be utilised in you attending upon rehabilitative services relevant to your drug and alcohol difficulties. They will also be used in ongoing educational programmes. In my view will provide you with the assistance, guidance and support you are likely to need if you are going to achieve your stated aim of a healthy and stable lifestyle and employment.

In determining the appropriate sentence, I am mindful of the fact that you have spent a considerable period of time in detention. To my mind, that is sufficient punishment and the sentence I impose should be directed at encouraging your rehabilitation. I make a sentencing order under the *Youth Justice Act*. Without conviction, I order that you perform 100 hours of unpaid community service.

I make a compensation order in favour of IGA Invermay in an amount to be assessed.