

STATE OF TASMANIA v JAMIE PAUL WILMOTT
COMMENTS ON PASSING SENTENCE

27 MAY 2024
WOOD J

Jamie Paul Wilmott has pleaded guilty to charges arising out of an incident of criminal offending on 1 July 2022, involving one charge of aggravated carjacking and four charges of assault.

The defendant's crimes were carried out in the company of his co-accused, James Bannister, aged 18 years at the time.

The defendant, Mr Wilmott, was aged 33 and he knew the complainant, Leslie Barber, who was 50 years of age. The complainant had previously given the defendant and Mr Bannister lifts in his father's vehicle, a Mazda 2A.

On 1 July 2022 at approximately 7:00 pm, the defendant sent a text message to the complainant asking him for a lift. They had a phone conversation and the complainant asked if he would be with anyone else and the defendant said it would just be him alone. He asked the complainant to pick him up from Innes Street in Glenorchy and the complainant agreed.

At approximately 8:00 pm the complainant was sitting in the vehicle adjacent to the Club Hotel in Glenorchy when Mr Bannister approached the car. He opened the driver's side door and punched the complainant to the face, and the complainant attempted to fight back. The defendant opened the front passenger door and also started to punch the complainant. This conduct is the beginning of the crime of aggravated carjacking, involving causing bodily harm immediately before the time of carjacking, and carried out in the company of another person, Mr Bannister, and this conduct also amounts to the crime of assault.

The complainant ended up on the ground outside the vehicle with both men kicking and punching him. This is a continuation of the crime of aggravated carjacking and also the subject of count 3, assault.

The complainant got to his feet and started to run towards the Club Hotel carpark but tripped, fell over, and dislocated his finger. The defendant caught up to him and the complainant got to his feet and yelled, "I'm not running", and the defendant replied, "You are coming with us." The complainant tried to stall the defendant by saying he needed time to breathe. The defendant stated, "You are coming with us and we are taking the car".

Whilst walking back to the vehicle, the complainant tried to escape by fighting with both men. During the scuffle, the complainant fell to the ground. The defendant bent down and said words to the effect of, "I've got a knife to your neck, don't try and struggle...", and pressed a sharp object to the complainant's throat. Thereby, the defendant committed a further assault. The complainant submitted and got into the vehicle with both men. The defendant got into the driver's seat and Mr Bannister sat in the back seat with the complainant. The conduct of forcing the complainant into the car against his will and keeping him in the car amounts to the crime of assault involving depriving the complainant of his liberty.

Mr Wilmott drove to Stansall Street in Glenorchy, the home of his partner at the time, and then entered the property and returned with his partner. Both he and his partner got into the vehicle.

Mr Wilmott drove to the United Petrol Station on the Brooker Highway in Lutana and \$5 worth of fuel was pumped into the car. After paying for it, the defendant continued to drive the car

around Lutana. On Lennox Avenue, as the vehicle slowed, the complainant jumped out of the vehicle and sought refuge in the yard of a nearby residence. After the vehicle left the area, he sought assistance from the occupant. The occupant called for police and ambulance assistance.

The complainant was taken by ambulance to the Royal Hobart Hospital and was admitted with the following injuries: a fractured rib, a lung contusion, a dislocated finger, a broken finger, and lacerations to both his face and body. He has scarring to his face which is expected to be long lasting.

He spent two days in hospital. The scarring is a reminder of the dreadful ordeal he was subjected to.

On 9 August 2022, the defendant was arrested and participated in a video recorded interview where he lied about his involvement and denied any violence towards the complainant.

The motor vehicle was ultimately found destroyed but it should be noted that the defendant is not charged with that destruction.

The defendant and his co-offender Mr Bannister formed a common intention to commit the crime of carjacking and both are criminally responsible for this crime. The violence was carried out jointly and as principal offenders, although Mr Wilmott acted on his own initiative and is solely responsible for his violent act of holding a sharp object to the throat of the complainant.

These crimes have adversely affected the complainant not just in terms of the physical injuries that were inflicted, but also in terms of his outlook and many aspects of his life. His social life, self-confidence, and sleep patterns have been affected. This detrimental impact is what would be expected to be the result of the completely unexpected and terrifying experience that he was subjected to.

The defendant is 35 years of age and as an adult he has eight prior convictions for common assault, most attracting wholly or partially suspended terms of imprisonment. There is a gap in his violent offending between an offence of common assault committed in 2012 and May 2022, when he committed a family violence offence of common assault and subsequently, breaches of a family violence order and breaches of bail conditions. In relation to those offences, he was sentenced in March 2023 to a term of 10 months' imprisonment, which he has served. A community correction order was also imposed and will be effective for 18 months on his release.

He has a history of other relevant offending involving offences of dishonesty, such as motor vehicle stealing, firearms offences including recklessly discharge a firearm, and driving offences including evade police, and a number of prior convictions for drug-related offences. It can be seen from his record that he has breached suspended sentences on a significant number of occasions and that he has been resentenced as a result.

The defendant has a long-standing addiction to methamphetamine and present and past offending has coincided with his drug use. A sentence involving home detention and a community correction order was imposed in September 2019. After that sentence was imposed, there was a period until January 2022 when he did not offend. I am informed that during that period, the defendant abstained from illicit drugs and was supported by his partner. His life took a very positive turn and he was observed to be caring and responsible. However, that relationship came to an end and unfortunately the defendant did not seek support and relapsed

into drug use. He abandoned the suboxone program and his drug use escalated. He began committing offences to fund his drug habit and the cycle of drugs and crime again took over his life. It was in these circumstances that he committed the crimes which are now for sentence and the offences committed in the months prior, resulting in the sentence of 10 months' imprisonment.

The defendant has been in custody for these matters since 9 August 2022. In that time, he has served the sentence of 10 months' imprisonment and it is accepted that the sentence I impose should be backdated to the 30 April 2023.

He has been abstinent for a period of some months and has resumed the suboxone program while in prison, and he will continue to receive that treatment on his release.

Mr Wilmott is remorseful, and indicated over 12 months ago in March 2023 that he would plead guilty and has agreed to give evidence if need be on Mr Bannister's trial.

The Director of Public Prosecutions needed time to finalise the indictment and that has taken many months. Consequently, the defendant has been held on remand in the medium security unit of the prison and unable to have the opportunity to progress to minimum security with greater access to therapeutic programs. His sentence has consequently been harsher and less conducive to rehabilitation than if it had been resolved when he wanted to plead guilty.

He is close to his parents and he will have their support on his release. They have arranged for support from the National Disability Insurance Scheme because of his learning disability which means he has difficulty with reading and writing.

Mr Wilmott has demonstrated a capacity and commitment to reform in the past, and I have a report from Community Corrections indicating his response to home detention and engagement with supervision by Community Corrections in 2019 was of a high standard.

Mr Wilmott, these crimes are regarded as very serious. You knew the complainant, Mr Barber, and set him up to give you a lift in his car when you knew you and your co-offender planned to take his car without his consent. There was an element of calculation involved, and the crimes involved an abuse of trust and taking advantage of the complainant's good nature. You subjected him to repeated acts of violence, and a terrifying ordeal. It was a two onto one cowardly attack and a despicable thing to do. The violence included punching him to the head and kicking and punching him to the head and body when he was on the ground. That conduct is inherently dangerous, with any one of the blows carrying a risk of grave injury. When he tried to escape, he was subjected to further violence and to the indignity and aggression of being forced against his will into the car.

These features of your conduct and the harm caused to the complainant must be reflected in the sentence I impose today. Goals of general deterrence and denunciation are important considerations and demand a heavy sentence of imprisonment.

Your rehabilitation, however, is also an important goal, noting in particular your remorse, which I am satisfied is genuine, and your demonstrated capacity to reform and motivation to remain on the suboxone program and to comply with intervention. Obviously, drug treatment and counselling involving relapse prevention strategies will be critical to that reform.

A global sentence across all five charges will be imposed. There is considerable overlap with count 1 the aggravated carjacking and counts 2–5, involving four counts of assault, some of which involved causing the complainant bodily harm before the carjacking and all of which were carried out in the company of Mr Bannister, which was an aggravating feature of the carjacking. I have been careful to ensure the sentence reflects that overlap and is a just and appropriate sentence for the conduct which gives rise to the charges.

I record convictions, and I impose a global sentence on the indictment of two years and 10 months' imprisonment backdated to 30 April 2023. I suspend six months on strict conditions:

- You must not commit any offences which could attract a term of imprisonment for two years from release
- You must, during the operational period of the order, undergo assessment and treatment for drug dependency as directed by a probation officer;
- You must, during the operational period of the order, submit to medical, psychological, or psychiatric assessment or treatment as directed by a probation officer;
- You must, during the operational period of the order, engage with counselling services to address your anger management issues.

In relation to the balance, two years and four months' imprisonment, I impose a non-parole period close to the minimum of one year and three months' imprisonment. You will be eligible to apply for parole once you have served that period.

In terms of a licence disqualification period, I have taken into account what Mr Cangelosi has said about your aspirations to find work. I impose 12 months licence disqualification to commence at the conclusion of the period which has previously been imposed by a court and which will take effect on your release.