

STATE OF TASMANIA v PAUL LESLIE TRIFFETT
COMMENTS ON PASSING SENTENCE

23 APRIL 2024
WOOD J

The defendant, Paul Leslie Triffett, has pleaded guilty to seven counts on indictment: two counts of burglary, two counts of stealing, one count of aggravated burglary, one count of stealing a firearm or firearm part, and one count of dangerous driving.

The defendant is jointly charged with another adult, Samuel David William Maple, and the crimes, apart from the dangerous driving, were committed as joint principals.

Further, the defendant is to be sentenced for related summary offences, namely possess a firearm when not the holder of a firearm licence of the appropriate category, possess ammunition when not the holder of the appropriate firearm licence, possess a firearm part, drive whilst disqualified, breach of bail, evade police (aggravated circumstances), dishonestly alter or display a plate in a way calculated to deceive, and driver involved in a crash and failing to stop.

On 28 May 2022, the defendant and his co-accused, Mr Maple, entered McKay's Timber Yard in Glenorchy at about 3:00 am. They entered a shed on the property by cutting and prying open the iron sheeting on the side of the shed. One of the men entered the shed and removed the batteries from an alarm sensor, disarming it, then opened the shed door and let the other male into the shed. The two men then went to a second shed door and disarmed another alarm sensor. They inspected a utility vehicle parked inside and various piles of timber stacked inside (count 1, burglary).

At approximately 3:30 am, power to the CCTV system at the property was disconnected. Coverall Security were notified and attended shortly after. The defendant and his co-accused were not located.

On 29 May 2022 at approximately 9:20 pm, the defendant and his co-accused returned to McKay's and gained entry to the yard by cutting through a chain-link fence on Grove Gate Road. Inside the property, they entered the shed by pulling back the iron sheeting they had previously cut (count 2, burglary). There, they stole a Nissan Navara utility from the premises, the keys to which had been left in the ignition of the vehicle (count 3, stealing).

On 31 May 2022, between 7:45 am and 8:13 am, the defendant and his co-accused entered the residence of Shane Fowle at Daniels Road in Magra. Entry was gained by forcing the back door open (count 4, aggravated burglary). CCTV footage showed both men wearing gloves. They entered the spare room where there were two safes, both locked inside a wardrobe. The defendant tried to open them. His co-accused left the room, returning with a large crowbar, and they worked together to try and jimmy open the safes. The co-accused removed the wardrobe doors to obtain better access.

They left the room and returned with a tub of tools taken from a nearby unlocked shed on the property. The co-accused used a small crowbar and hammer and the defendant used a large mattock, and they jimmied the larger safe away from the wall.

The co-accused left the room and entered the master bedroom where he found another small safe in a wardrobe, removed it, and placed it in the hallway of the residence.

The defendant dislodged the small safe in the spare room and carried it out into the hallway. They then searched the rest of the house, taking various pieces of jewellery, documents, and household items. They were captured on CCTV footage leaving the residence at approximately 8:27 am having stolen a firearm safe; a 12 gauge Winchester shotgun, single barrel; a .22 Norinco bolt-action rifle with telescopic sight; a small digital safe; six or seven 12 gauge bird shot shells; approximately 20 or 30 .22 rounds of ammunition; personal documents, including passports and birth certificates; approximately \$700 in cash; a quantity of collectable coins and paper money; assorted jewellery; assorted power tools; a Rok jack hammer; and assorted keys.

The total monetary value of the items was \$4,170. This conduct gives rise to counts 5 and 6 on indictment, namely stealing a firearm or firearm part and stealing.

A few minutes after the defendant and his co-accused left the property, the owner of the residence, Shane Fowle, who was approximately 200 metres from his driveway, saw a white flat tray utility with two occupants travelling very fast. He described the utility as almost running him off the road.

Mr Fowle went inside his property, realised he had been broken into, and tried to follow the utility before flagging down a nearby police vehicle.

The defendant and his co-accused were the occupants of the utility. This was the same utility that they had stolen from McKay's. It is not known whether the defendant was driving at the time the utility was seen by Mr Fowle, but he drove on Boyer Road at Dromedary, towards Bridgewater.

The vehicle was seen by police at approximately 9:20 am and they tried to intercept it south of Millvale Road. The defendant was driving at this point. The defendant did not stop, evaded police, and continued south. Police followed the vehicle with their lights and sirens activated. The white utility caught up to a group of four vehicles which were negotiating a blind left-hand corner on Boyer Road and swerved erratically, attempting to overtake the four vehicles. The utility crossed double white lines, entered the northbound lane on the blind corner, and overtook two vehicles. The drivers of the two vehicles, on becoming aware of the police vehicle's lights and sirens, pulled over, which allowed the white utility to pass them. It accelerated rapidly and continued towards Bridgewater. Police ceased their pursuit of the utility.

At the Midland Highway and Boyer Road junction, the defendant turned right onto the Bridgewater Bridge, where the speed limit was reduced to 40 km/h due to roadworks. He was followed by an unmarked police vehicle. There was heavy traffic on the bridge in both directions and the white utility slowed as a result but started to swerve erratically in an attempt to overtake vehicles. He overtook one vehicle and was then behind a medium flatbed truck. He attempted to overtake the truck but, as he swerved to do so, he struck the rear right corner of the truck. The truck and other vehicles in front pulled over, allowing the white utility to pass.

The white utility sped up as it approached the western end of the bridge, where the speed limit is 60 km/h. It overtook another vehicle, narrowly avoiding a collision.

Police had set up a vehicle immobilisation device, known as "road spikes", just past the western end of the bridge, but the white utility crossed on the incorrect side of the road and drove over a traffic island to avoid the device.

Police followed the white utility as it turned left off the Brooker Highway onto Main Road in Granton and continued on Main Road towards Austin's Ferry. It accelerated heavily, reaching an estimated speed of 110 km/h in an area where the speed limit is 60 km/h.

The white utility approached the junction at Akamas Drive, accelerated heavily, and overtook a Metro Bus on a left-hand bend. In doing so, it narrowly avoided the bus, a cyclist, and an oncoming vehicle, which swerved out of the way of the white utility and narrowly missed it. Police continued to pursue the vehicle with lights and sirens activated.

The white utility continued south on Main Road near Gould's Lagoon at a speed of approximately 130 km/h in an area where the speed limit is 60 km/h.

The white utility continued to travel at speed towards the Arncliffe Road junction. Police ended their pursuit of the white utility, last sighting it travelling south on Main Road towards Claremont.

A member of the public recorded footage of the white utility travelling along Main Road Claremont at speed. It overtook a vehicle dangerously as it passed the United Service Station. It continued to travel at speed, turning onto Kestrel Street, then onto Falcon Road. It stopped on Falcon Road, which concluded the defendant's course of dangerous driving.

The defendant and his co-accused exited the vehicle carrying several bags with them. They walked down a nearby walking track towards the foreshore. Shortly afterwards, the white utility was located by police. Affixed to the vehicle were false number plates. The defendant and his co-accused were located by police and arrested. Police searched the foreshore and located some of the stolen property and items of clothing worn by the men. The recovered stolen property included the .22 Norinco bolt-action rifle with telescopic sight, five shot gun shells, approximately 60 rounds of .22 ammunition, household items, cash, and a Kinchrome tool case. The vehicle was searched and police found the 12 gauge single barrel Winchester shot gun and Rok jackhammer.

I take into account that all of the property has been recovered, including the two firearms, the telescopic sight, and stolen ammunition.

The defendant was interviewed and admitted an involvement in the aggravated burglary and theft of some items. He provided an explanation for the firearms which involved denying he had stolen them. He denied being the driver during the course of dangerous driving.

The defendant has never held a driver's licence and at the time of offending was a disqualified driver. As a result of cumulative orders for disqualification, he is disqualified from driving until 26 April 2028.

The course of dangerous driving occurred over 16.9 kilometres and the defendant drove amongst heavy traffic, taking significant risks such that, if not for the evasive actions taken by other drivers, may easily have resulted in a collision and, given his speed, the prospect of death or serious injury.

The defendant has been in custody since the 31 January 2023 and all of that time is attributed to sentences imposed on 27 July 2023, amounting to two and a half years' imprisonment with a non-parole period of 15 months. His earliest release date is 31 March 2025, and the earliest date when he became eligible for parole is 22 December 2023.

The defendant has a significant history of offending commencing when he was a youth, and he has been sentenced to terms of imprisonment since he was a young adult. As an adult he has numerous prior convictions for dishonesty offences including: 31 for motor vehicle stealing; 31 for stealing; 10 for burglary, and five for aggravated burglary. He also has numerous prior convictions for driving including 23 for driving whilst disqualified, many for unlicensed driving and driving an unregistered motor vehicle, one for dangerous driving, one for reckless driving, two for evade police, one for evade police with aggravating circumstances, and four for drive with a prescribed illicit substance present in blood. He also has prior convictions for offences relating to firearms.

All of the crimes before the Court today were committed over a few days at the end May 2022 and he has since, on 27 July 2023, been convicted for offences that were committed both before and after the crimes before the Court. While the sentences imposed in July 2023 are not prior convictions as such, they are still relevant to the court's consideration. These convictions include ten for drive whilst disqualified, three for motor vehicle stealing, two evading police (aggravated circumstances), three drive a motor vehicle whilst a prescribed illicit drug is present in oral fluid, and breach of bail conditions, as well as a number of applications to breach suspended sentences which were activated. Some of the offences, particularly drive whilst disqualified, were committed close in time to the end of May 2022, which is when these crimes were committed.

In imposing sentence today, I have had regard to the fact that the three incidents of criminal offending – McKays, Mr Fowle's property and the dangerous driving - were committed close in time to each other, particularly the aggravated burglary, the stealing involving Mr Fowle's property, and the dangerous driving which can properly be viewed as a single escape.

Further, I have taken into account that the defendant is already serving a lengthy sentence and I have moderated the sentence I impose today in light of the sentence he is already serving to ensure that the combined effect of the sentences is not so heavy that it exceeds the total criminality of the offences committed and to ensure that the sentence I impose is just and proportionate to that criminality.

If not for the lengthy term imposed in July last year, the sentences I would have imposed would have been lengthier. I also take into account that as result of staffing shortages, lock-downs have been and continue to be a common occurrence at the prison and, as a result, a prison term is a more punitive environment resulting in prisoners spending more time in their cells and more cancellation of contact visits and phone calls than used to be the case.

The defendant was 41 years of age at the time of offending. He has pleaded guilty to all of the offences before the Court which has facilitated the course of justice, although I note the Crown case in relation to all of them seems to be particularly strong. Nonetheless, it is in the interests of justice that he has pleaded guilty and that is taken into account. The background to his offending and his circumstances are also taken into account by me. The period of offending before the Court followed a time of stability in the defendant's life. He had been released from

prison after serving a term of imprisonment and was on bail for summary offences. He was achieving success in addressing his long-standing problem with illicit substance abuse, and his partner was also making good progress with her difficulties in that regard.

This period of stability and progress unfortunately did not last and there was a drastic downturn in his circumstances. The couple had another child in this period and at the time his partner gave birth, she was suffering from a number of complex medical issues, including liver disease and a heart condition. She was too ill to care for their child and placed the infant in the care of a friend. However, the conduct of the friend's partner came to the notice of Child and Family Services and there were child protection proceedings resulting in the infant and the couple's two youngest children being taken into care.

The defendant and his partner struggled with this situation regarding their children. In this period, the defendant resumed his drug use, his partner's health declined, and she was hospitalised for a significant period of time. She was released from hospital but unfortunately did not recover and passed away at the end of 2022. It was during this very difficult time when the family situation was deteriorating, and his partner's health was declining, that the defendant resumed offending and offences involving driving whilst disqualified and the crimes before the Court were committed.

Having resumed his former drug taking, the defendant became indebted, and the offences before the Court were committed to pay his drug debts and the funding of his habit. The dishonesty crimes before the Court represent an escalation in his criminal behaviour compared to his past offending.

Having been remanded in custody and serving a sentence, he is isolated from his children, who have lost their mother as a result of her passing away, and there is much for him to reflect on. He wishes he was able to be there for his children. He is motivated to address his drug problem and to demonstrate his capacity to be a good parent. He has engaged with the prison family worker and is motivated to attend parenting and drug and alcohol courses, and counselling if available. His motivation is a positive factor in terms of his reform and so is the fact that he had been successful in achieving that past period of stability. An intensive level of drug rehabilitation involving relapse prevention strategies will be needed in the future to enhance his prospects.

Giving weight to these positive considerations, a heavy sentence is nonetheless required to reflect the seriousness of his offending and the importance of both general and personal deterrence.

The burglary and theft from McKay's and Mr Fowle's residence were professionally executed, involving planning and sustained efforts, and the targeting of premises where there were valuable assets of a kind that could be offloaded to criminals. They each warrant heavy sentences. As I said, the dangerous driving is a serious example and showed a significant lack of regard for public safety. I will take into account the cumulative effect of the sentences I impose today and as I have said, the sentences will not be as long as if he was being sentenced for these criminal incidents on their own.

In deciding on the sentence, I have still given weight to your rehabilitation and the motivation you have to reform. In my view, your prospects for reform are best reflected in your eligibility

for parole and a lengthy period of parole, if granted, should offer the supports and incentives which will enhance those prospects.

For the three crimes involving McKay's (counts 1, 2 and 3 on indictment), I would have imposed a global sentence in order of 18 months' imprisonment. Because of the lengthy sentence you have been serving and totality considerations, I impose 12 months' imprisonment instead and record convictions. The sentence is to be served cumulatively to the sentence you are currently serving. You are not to be eligible for parole until you have served 6 months' imprisonment.

For the crimes involving Mr Fowle's property (counts 4, 5, and 6 on indictment), I would have imposed a global sentence of 18 months' imprisonment, however, in light of the factors I have mentioned, I impose 12 months' imprisonment to be served cumulatively to the sentence imposed on counts 1, 2, and 3 on indictment. You are subject to the minimum non-parole period of 6 months' imprisonment.

In relation to the three firearms offences, I record convictions and on charge 7 on 4199/22, that of possess a firearm when not the holder of a firearm licence of the appropriate category, I impose a term of one month imprisonment to be served at the same time as the sentence imposed on counts 4, 5, and 6.

For the dangerous driving, count 8 on indictment, I would ordinarily have imposed a sentence of at least two years' imprisonment. In light of totality considerations, you are convicted and sentenced to a global sentence of 18 months' imprisonment, to be served cumulatively to the sentence imposed on counts 4, 5, and 6. You are subject to a non-parole period of 9 months' imprisonment.

In relation to the offence of drive while disqualified, breach of bail, evade police (aggravated circumstances), dishonestly alter or display a plate in a way calculated to deceive, driver involved in a crash and failing to stop, all arising from the one course of conduct of dangerous driving, I record convictions. I impose 3 months' imprisonment on the offence of driving whilst disqualified, to be served concurrently with the sentence imposed on count 8, and on the evade police (aggravated circumstances), I impose 5 months' imprisonment, again to be served concurrently with the sentence imposed on count 8.

I impose a period of disqualification of three years on the dangerous driving, a further period of two years on the evade police to commence at the expiration of the current term of disqualification, and a concurrent period of 12 months on the drive while disqualified. The defendant's licence is cancelled.

It is my intention that the non-parole periods should operate cumulatively to each other and the non-parole period of the sentence he is currently serving.

I make a compensation order in favour of McKays Investment Pty Ltd, trading as McKay's Timber, with the terms of that order adjourned sine die for assessment.