

Mr C, the defendant, pleaded guilty to one count of armed robbery on his second appearance in the Magistrates' Court, and appears in this Court for sentence. He had only just turned 17 at the time of the crime. The facts are that on Saturday, 18 May 2024, at little after 4.30pm, the defendant went into a liquor outlet in Launceston. He was wearing a black balaclava and was in possession of a screwdriver. He was approached by a security officer, Mr Porter, and told to get out. The defendant put his right hand in the air above his head and said something to the effect of get out of my way or I will stab you. Mr Porter then saw a metal object in the defendant's hand which he believed to be a screwdriver or a scalpel. He stepped back immediately, and the defendant walked past, went to an aisle and took some bottles from a shelf. In the meantime, Mr Porter was making sure other people were cleared out of the way. The defendant then threatened Mr Porter by saying "come near me and I will stab you". Having picked up five bottles of alcohol, and some fruit juice, the defendant jumped the entry gate to leave the store. An additional bottle of alcohol fell out of his bag just before he jumped the gate. Police were immediately called, and they saw the defendant fleeing the scene. He was located hiding nearby and was arrested. He was detained overnight because of his level of intoxication. The next day he was interviewed and made full admissions. He said that he was told to commit the armed robbery by other youths who had been pressuring him to offend, and he was fearful that if he did not comply, he would be bashed. He was given a screwdriver by one of the other youths, and very shortly after leaving the store he gave the alcohol and screwdriver back to the group of youths. He said that he did not intend on harming anyone.

The defendant is still 17 years old. I have a youth justice pre-sentence report dated 3 September 2024 and the benefit of counsel's submissions. The facts the defendant provided to the youth justice worker are consistent with what he told police. He said that he stolen alcohol from a bottle shop earlier in the day and was intoxicated. He was approached by a large group of young people many of whom he knew. He was told to "do a bottle run" or he would get bashed. He was given the screwdriver. He believed he would be assaulted by the group if he did not do as he was told, saying that he knew they had bashed friends of his before. He acknowledged that he could have gone to the shop and walked out and run away but said he did not think he could outrun the group, some of whom were on scooters. He expressed regret, saying that he wished that he had not done what he did, but he could not see a way out of it. He said he would not have stabbed the security officer but accepted he would not have known that and would have been scared.

The defendant has no record of any prior offending at all. His parents separated when he was an infant, and he has been cared for by his father with contact with his mother and siblings on weekends and holidays. The background to the offending is that he had been struggling in his relationship with his parents and decided to live away from home. He stayed with friends or in a tent which he had set up near the city. The almost inevitable happened and began to associate with a pro-criminal peer group. He found it difficult with these people and was under pressure to fit in. He had witnessed acts of violence by members of the group and was generally fearful of the consequences if he did not do-as instructed. He accepts that his intoxication contributed to his poor judgment. Since this offending he is back living with his father and has reconciled with his mother. As a result of these things there are significant protective factors now in place. It appears that he was a good student at high school but things fell away in year 11, although he is now re-engaging with his education by online learning and hopes to return to campus when he feels safe to do so. He is reported as presenting as an intelligent and articulate young

person who has been co-operative with youth justice. He continues to be engaged with the "54 Reasons" bail support program and that includes encouragement towards casual employment and outdoor activities and learning to drive. There are clear indicators of this being an out of character act, carried out in some genuine fear of reprisal if he had not done as he was told. The Youth Justice recommendation is for a community service order, and I propose to accept that recommendation. The defendant's counsel submitted that it would be appropriate to proceed to penalty without conviction, notwithstanding the seriousness of the offence. Section 49(4) of the *Youth Justice Act* requires regard to be had to all the circumstances of the case including the nature of the offence, the youth's age, any sentences or sanctions previously imposed by any court or community conference and any formal cautions previously administered, together with the impact the conviction will have on the youth's chances of rehabilitation generally or finding or retaining employment. I note that there is an outstanding charge relating to the theft of alcohol early on the same day but that was also done after being threatened. Of course, armed robbery is a serious crime. In this present sort of context I observe shop staff and security officers are often in vulnerable situations and require the protection of the law. The application of the principles of youth justice is moderated the more serious the offending. I note Mr Porter did not suffer any physical injury and after some counselling seems to have fully recovered from the emotional shock. I also note the relatively low value of the goods stolen although it is the means by which they were stolen which is the essence of the criminality. All things considered, given the long-term consequences, in this case I am prepared to proceed without recording a conviction. In that respect, I note the very early plea of guilty and acceptance of responsibility, the expressions of remorse and shame, and the reversion to a stable and structured personal environment with the attendant good-prospects of rehabilitation. I also note the short period of time spent in custody.

Mr C, I have set out the facts, and your personal circumstances. As I think you understand, this was a very serious thing to do. To your credit, you have seem to have shown insight into your offending. You have expressed remorse, and you accept that the security officer must have been frightened. I will give you a second chance and I will not record a conviction, but the nature of the crime calls for a sentence with immediate impact. I make a community service order under the *Youth Justice Act* requiring you to perform 120 hours, with special conditions that you the must abstain from drinking alcohol and from using controlled substances during the time the order is in force. That means what it says, you have to carry out 120 hours of community service as directed by the youth justice officer and during the time that order is in force and you are completing those hours you cannot drink alcohol and you cannot use controlled substance; and cannabis is one. You must report to Miriam Pulbrook or other youth justice worker at Youth Justice, 115-119 Cameron Street Launceston by 5pm tomorrow. I make a compensation order in favour of Dan Murphy's ABN 77 767 843 in the amount of \$294.95.