

STATE OF TASMANIA v GREGORY EDWARD WHITTLE 18 SEPTEMBER 2024
COMMENTS ON PASSING SENTENCE JAGO J

Mr Whittle, you have pleaded guilty on indictment to two counts of demanding property with menaces with intent to steal. I am also dealing with a related summary offence of stealing.

The first crime was committed on 16 March 2023. On this date, you entered the Terry White Pharmacy in Burnie in an agitated state. You approached the dispensary counter where a pharmacist, Mr Muir Wilson, was standing. Mr Muir Wilson knew you because you were a regular customer at the pharmacy. You yelled at Mr Muir Wilson to give you Valium or you would become violent. At the time, you did not have a valid prescription for Valium. Mr Muir Wilson and another pharmacist endeavoured to calm you down. This was to no avail. You remained very aggressive. Other customers in the store, obviously intimidated by your behaviour, departed. You said to Mr Muir Wilson that if he did not give you the Valium, you would "rip his fucking head off". You threatened to assault him and others. Ultimately, given your aggressive and threatening behaviours, Mr Muir Wilson felt he had no choice but to give you the medication. You took the two Valium tablets that were provided and swallowed them. Because of the way in which you obtained the Valium tablets, you are also guilty of stealing them.

The matter was reported to police. You were located on 17 March 2023 and arrested in respect to the matter. You were subsequently bailed. A fortnight later, whilst still on bail, you again entered a pharmacy and made demands. This time it was Boland's Pharmacy in Burnie. You approached the counter and said to a pharmacy assistant, "If I don't get my needles, I am going to go skits and bash everyone". Whilst you were making these demands, you were also speaking to yourself and saying things like, "It wasn't savage enough". The situation must have been confusing and intimidating for the staff.

You moved behind the counter and said, "I am going to get my Olanzapine or my needles. I am going to get my needles off this cunt". You said to the pharmacy assistant, "Can I get my needles cunt". At this stage another pharmacy assistant, Ms McDermott, intervened. She asked you if you wanted water with your needles. You responded by saying, "I can't pay, but if you don't give me needles, I will kill everybody here".

Ms McDermott said that she would go and get the needles. She went to the dispensary, spoke with the pharmacist, and proceeded to collect the needles. As she was retrieving them you said, "I will just go and get them myself, she can't hurt me". You walked past the counter into the dispensary. When Ms McDermott turned around, you were standing there, face to face with her. She handed you the needles. You gave her two Easter eggs and said, "There you go, have some Easter eggs." As you walked out, you threw a \$1.00 coin onto the ground. As you exited the pharmacy, you kept repeating, "I'm going to kill everybody". It was a very strange and confronting situation. Police were called. They located you shortly after, on a nearby street. You were arrested. You were detained in custody for a period before receiving a bail order. I am told you have spent 134 days in custody in total relevant to this matter.

Your behaviour has had a terrible impact upon Ms McDermott. I have received and carefully considered her Victim Impact Statement. Since the incident, she has suffered with nightmares, leading to sleep deprivation and has had overwhelming paranoia. The incident triggered an episode of trigeminal neuralgia, which left her with intense pain across her eye, cheek and chin. She was forced to take time off work. Her mental health deteriorated. She is now left feeling

paranoid and is prone to suffer panic attacks. Her relationships have been impacted and she has developed depression and anxiety. She has had to seek out professional assistance in respect to this. In short, the impact upon Ms McDermott has been severe.

You are 53 years of age. You have a significant recorded history of offending. You have many convictions for offences of dishonesty, driving offences and offences contrary to the *Misuse of Drugs Act*. As to offences of violence, you have a conviction in January 2000 for common assault. In November 2003, you were convicted of two counts of common assault. In December 2013, you were convicted of common assault and breaching a police family violence order. In December 2013, you were also convicted of stalking and unlawfully possess dangerous article in a public place. There are also convictions for destroying property, threatening police officers and intimidating police officers. In July 2024, so obviously after the date of this offending, you were convicted of a further four counts of common assault. For those, and other matters, you received a two-month period of imprisonment, commencing in May 2024. You have served that period of imprisonment.

I am told that since serving that period of imprisonment, you have worked very hard at stabilising what has been a long-term drug addiction and mental health difficulties. Your history is a complex one. You have a history of childhood trauma and sexual abuse. You grew up in a home environment where you were subject to considerable physical and psychological abuse. When you were approximately six, you were sexually abused by an older sibling. Then, when you were between the ages of nine and 12, you were sexually abused by an older male family friend. You left home at an early age and began using cannabis by about the age of 15.

In later life, you commenced the use of amphetamine. At the time you were working shift work in the security industry. Your home life was quite testing in that you had a newborn baby and you were also providing care for your mother, who was suffering with cancer. You were trying to function on limited sleep. A friend in the industry gave you some amphetamine and very quickly you became addicted. Your use of this substance, together with your sustained use of cannabis over the years, exacerbated pre-existing mental health difficulties.

Your family has a history of mental health difficulties. You have been diagnosed with a number of conditions, including major depressive disorder, substance abuse disorder, anti-social/borderline personality disorder and now bi-polar. There has been several episodes of suicidal ideation and significant periods of time spent in mental health care facilities.

I have received a forensic psychological assessment, prepared by Dr Georgina O'Donnell. In it, she outlines your complex mental health history and opines that your mental health difficulties exist independently of your long-term drug use but are, of course, complicated by your ongoing substance abuse. She notes that you have a long history of substance use disorder, which continues to have a significant impact upon your mental health and behaviour. Intertwined with the substance use is a significant disturbance of mood and personality. Dr O'Donnell is of the view that there is a causal link between your major depressive disorder and personality disorder, and the offending behaviour.

Your mental health conditions result in depressed mood, agitation, impulsivity, reckless behaviours, intense anger, and emotional dysregulation. Dr O'Donnell is of the view that all these factors were operative at the time you engaged in the criminal acts. In all the circumstances, I am satisfied that your mental health played a role in the offending and that your moral culpability is therefore reduced. I also accept that because of your mental health

difficulties and symptomology, a period of imprisonment is likely to challenge your ability to cope and there is a risk your mental health may further deteriorate.

Presently, you are engaged with the Bridge Residential Rehabilitation Programme. I have a report from one of the alcohol and drug specialists who work within that programme. She confirms that you are an in-patient at the programme. She confirms that you have engaged very well with the programme, and that you are also engaging with a mental health counsellor on an almost daily basis. She considers that you are showing considerable improvement in regard to your mental health and your drug addiction. I am also told there is an ongoing treatment plan for when you complete your time as an in-patient at the residential rehabilitation programme.

Whilst on one view, your record of offending suggests a degree of scepticism is warranted in terms of assessing the likelihood of your rehabilitation being successful, there is, in my view, evidence of a genuine commitment to improvement and therefore a reason to be positive. You have obviously made a concerted effort in recent times to engage with mental health professionals and drug and alcohol counsellors, and the strong indication is that you are doing very well and you are committed to change.

There is no question your behaviour was very serious indeed. It caused great alarm to the staff at the pharmacies, and also members of the public. Ms McDermott, in particular, has found the situation most traumatic. People who work in businesses such as pharmacies, need and deserve whatever protection the courts can provide. They work in vulnerable situations and are often exposed to people with difficult personalities, making unwarranted demands and displaying aggressive behaviours.

In all of the circumstances a period of imprisonment is warranted to express condemnation of your behaviour, but given your recent efforts, I am of the view that it is appropriate to not send you back to prison immediately. You must clearly understand, however, Mr Whittle, that if you do not continue with your efforts to address your drug use and your mental health, it is likely, in my view, that you will breach the conditions of the suspended sentence I am about to impose, and a return to prison would almost inevitably result. So, you need to keep working.

I make the following orders. You are convicted of all matters to which you have pleaded guilty. You are sentenced to ten months' imprisonment, backdated to commence on 7 May 2024, to take into account time served in custody and not otherwise allocated to a sentencing order. The balance of the period of imprisonment will be suspended from today, on condition that for the next 18 months you commit no offence punishable by imprisonment.