

STATE OF TASMANIA v ZANE CHRISTOPHER BENSON
COMMENTS ON PASSING SENTENCE

20 NOVEMBER 2024
WOOD J

The defendant, Zane Christopher Benson, has pleaded guilty to burglary and stealing a firearm or firearm part.

The complainant was, at the time of the burglary, a registered firearms dealer and lived at Granton. He had a large shed on the property containing several large safes where he securely stored firearms and ammunition. The shed was kept locked overnight. During the night of Friday 30 July 2021, the defendant and his co-accused, Daniel Ashley Wheatley, and a third unknown person entered the shed after forcing open a heavy-duty screen door and solid door. Five safes were forced open and 12 firearms stolen, namely:

- Fieldman Naughton .22 Rifle
- OMARK 44 .308W Rifle
- Weatherby 0308NM Rifle
- Weatherby .308 Rifle
- Franchi 12 gauge Shotgun
- Hollis 12 gauge Shotgun
- Sako 75 22/250 Rifle
- Ruger Security .357 Revolver
- CZ-UB 9mm Handgun
- Smith & Wesson .22 Pistol
- Hi Standard Semi-Automatic Pistol
- BSA Sportmans Model 15 Rifle.

The approximate total value of the stolen firearms is \$14,500. A quantity of assorted ammunition was also stolen.

The following morning, the complainant discovered the theft of the firearms and reported the matter to Tasmania Police. A forensic examination of one of the safes returned a high-grade DNA match to Mr Wheatley and another returned a positive match to the defendant.

One of the firearms was recovered when a member of the public located it in the roof cavity of his house. None of the other firearms have been recovered.

On 30 April, police officers spoke to Mr Benson, he declined a video recorded interview and he was charged.

The defendant is aged 27. He has three prior convictions for burglary and three for stealing involving three incidents of offending, two incidents in 2016 and the other in May 2021.

Otherwise, his record consists of an offence of unlawfully possessing property, an offence of assault, two offences of destroy property, driving related offences, a few summary drug offences, breaches of bail, and failure to appear in court. He had a period of remand in custody of approximately two months from April to June 2022, and on 25 July 2023 he was sentenced to a period of two months' imprisonment.

He grew up in a supportive and stable family environment, close to his mother and three brothers; his parents having separated when he was young.

He attended school until he was in grade 10 then purchased a business and ran that for a time and then obtained other employment. At 18 years of age, he began using drugs socially and commenced using methylamphetamine. As time went on and his use grew to an addiction, he became involved with a drug-using and lawless cohort. His addiction and involvement with this cohort reached a peak in 2021 when he was drawn into committing crime to fund that habit. He owed his drug dealer thousands of dollars and did not have the capacity to repay that money. I note he has convictions for offences committed at this time with the purpose of trying to get funds to repay the debt.

The background to these crimes was that the debt was still largely outstanding, and his drug-dealer pressed him for payment of the debt. He was informed that if he went and helped with the "job" then his debt would be taken care of. He was not told what was involved. He felt intimidated and pressured and there was a background threat of violence if the debt was not repaid.

He went to the premises having limited information, not knowing what was to be stolen or that firearms were intended to be taken. Another or others planned the crime, took possession of the stolen firearms and received any profit made.

His role in the commission of the crimes was essentially as a lookout stationed outside the shed and then from inside. It was once he entered the shed that he realised what the others were doing and that firearms were being stolen. As a lookout, he was a party to the commission of the crimes and responsible for them.

While he was carrying out the role of lookout, he tried to discourage the others by making comments suggesting that someone was coming. On the pretext of looking to see what was going on, he left the shed and ran off and did not return.

I note that as a young man growing up in a semi-rural area, he appreciated the seriousness of targeting and stealing firearms. He would not have become involved in the crimes if he had known what was intended.

The next day he was called upon by his drug dealer and assaulted as punishment for his conduct in leaving. Evidently, the debt was and still is regarded as outstanding. There are ongoing reprisals. He was assaulted outside court on one occasion and one of his brothers has been assaulted while in custody.

He has seen and experienced first-hand the implications of being involved with drug dealers and criminals who have no regard for the law.

His offending occurred over three years ago, and he has not committed any offences of dishonesty since then. He was released on bail in June of 2022 and has not committed an

offence of any kind since. He extricated himself from criminal connections, and he has addressed and ceased his methylamphetamine use.

Recently his life has taken a tragic turn. His brother died in a motor vehicle accident in October 2023. He was a single father with a 13 year old son. The child is living with the defendant's mother but she is struggling with grief. The defendant and his other brother have taken on a strong role in caring for their nephew which is a mark of true character, especially when they have their own grief to deal with.

The defendant is now employed full-time with a labour hire company. I have a reference which speaks highly of the defendant's work ethic and reliability and he is regarded as having a good future in the construction industry.

He has recently found out that he is a father to a daughter who is several months old. This has provided further motivation for him to reform his life. He has pleaded guilty, and accepted responsibility for his offending, at a late stage but there is benefit to the community in terms of saving the cost of a trial and the inconvenience to witnesses which should be reflected in the sentence.

I have a report from Community Corrections dated 30 October 2024. It can be seen that the defendant has responded well to a two-year Community Correction Order imposed in July last year. He is considered suitable for community service.

I have taken into account the sentence imposed on Mr Wheatley which was 12 months' imprisonment wholly suspended for two years on conditions including community service and supervised probation. There are differences in terms of their circumstances, and their roles were not identical. Mr Wheatley's prior convictions for dishonesty were extensive. They both have different but significant mitigatory circumstances that deserve to be given weight. For Mr Benson, it is the case, as it was for Mr Wheatley, that general deterrence is of reduced importance.

Mr Benson, I record convictions and I impose a global sentence of 12 months' imprisonment wholly suspended on condition that you must not commit any offences that could attract a term of imprisonment for a period of two years.

A condition of the suspended sentence is that you must complete community service of 98 hours within that period of two years.

Another condition of the suspended sentence is that you must, during the operational period of the order, namely two years, submit to the supervision of a probation officer as required by the probation officer.

There are conditions that relate to supervision by a probation officer. You must comply with the reasonable and lawful directions of your probation officer, you must notify your probation officer of any change of your residential address or employment before, or within two working days of the change, and you cannot leave Tasmania without the permission of your probation officer.

Further conditions are that you must, during the operational period of the order, undergo assessment and treatment for drug dependency and relapse prevention as directed by a probation officer, and you must, during the operational period of the order, submit to medical

and psychological assessment or treatment including grief and loss counselling and, if directed, submit to psychiatric assessment and treatment as directed by a probation officer.

I also impose a condition that you must report to Community Corrections at 75 Liverpool Street in Hobart within two working days of today.

I make a compensation order in favour of Alan Walter Bennett in an amount to be assessed.