

Ms Maxwell, you have been found guilty by a jury of two counts of perverting justice. I am also dealing with your plea of guilty to a related summary offence of Possess a controlled drug, namely methylamphetamine, MDMA and methylphenidate. The only issue at the trial was whether you had the requisite state of mind to make you guilty of the crimes of perverting justice. The jury were satisfied beyond reasonable doubt that you did, thus, in my assessment, the facts largely follow from the verdicts.

In the early hours of the morning of 3 January 2023, you were awoken by the sound of a car arriving at your residence at [address redacted]. Shortly thereafter you heard an altercation, quickly followed by a sound that you believed to be a gunshot. It was, in fact, the sound of breaking glass, but I accept having been awoken in these circumstances that you were, you believed it was a gunshot. When you went to bed your two sons, Brock Davey and Cade Davey, were at the house together with a friend of theirs. You assumed, erroneously, but nevertheless understandably, that your son may have been shot. You called 000 requesting police attend the property. It is apparent from the 000 call that you were in a heightened emotional state. A few minutes later police called you back to ascertain more information about what was occurring. Whilst you were on the phone to police, the sound of a firearm being discharged could be heard. This was, in fact, the shot that killed a Mr Scott. The firearm was discharged by a Mr Coles, although you did not know any of the details of the shooting as at this point you were still inside the house. There was further yelling and sounds of an argument and shortly thereafter there was a second discharge of the firearm. It seems this discharge occurred when the firearm, which had been used to shoot Mr Scott, was thrown over the back fence of the property.

Shortly after the sound of this second discharge you said the words, "Where the fuck is the gun? It needs to be wiped clean before old mate comes". The uttering of these words constitutes the first count of perverting justice. At some stage, either shortly before, or just after police arrived, you took the phone of your son, Brock Davey, and hid it in a drawer in the tall boy in your bedroom. It is the hiding of the phone that grounds the second count of perverting justice.

The verdict of the jury means that you did each of these acts with the intention of perverting justice. I am satisfied your behaviour was directed at preventing or hampering the police investigation to protect your son. At the point you did these two acts, you did not know what had occurred. I am satisfied you feared your son may either have had some involvement, or might, at the very least, be unfairly incriminated in the shooting of Mr Scott, so you sought to eliminate potential evidence. As it turns out, your son had nothing to do with the shooting, but you did not know that at the time. By acting as you did, you potentially impacted the likelihood of a successful police investigation and therefore impacted the likelihood that persons responsible for the shooting would be brought to justice. Attempting to destroy, tamper with or conceal evidence, in circumstances where a man had been shot and died, is a very serious matter.

I take into account that your actions did not ultimately impede the police investigation, nor prevent Mr Coles from being held responsible for his actions. There is nothing to suggest the firearm was, in fact, wiped down. Forensic evidence was recovered from it. Nor was the hiding of the phone successful. Police found it during their search of your residence. They could not

access it, but that is not related to your act of hiding it. During the search, police also found a small bag containing 0.1 of a gram of a mix of the drugs I have referenced. Your efforts to defeat the due course of justice were unsuccessful, but the gravamen of this crime is the intent – you and others who may be minded to act in a similar fashion going forward, must understand that attempts to interfere with a police investigation by hiding or altering evidence, is not be tolerated. General deterrence is an important sentencing consideration.

You are 47 years of age. You have two children, both of whom are now adults but continue to live with you. You have been an industrious worker over many years, working predominantly in the aged care and disability sectors. You currently work in a specialised area within disability services and are well valued by your employer. You have several prior convictions related to driving offences, and a matter involving dishonesty from 2018. I do not consider any of those matters carry significant weight in this sentencing exercise. I accept that you have had a difficult life and have endured a number of traumatic events. You have been diagnosed as suffering with post traumatic stress disorder, depression, anxiety and narcolepsy. You are working with a clinical social worker in addressing some of these difficulties. I have been provided with a report from that worker and it seems you are motivated to try and improve things for yourself.

I accept you awoke to a confronting situation. There were unknown people in your house. There was a serious altercation occurring. Your son was injured and bleeding, and ultimately a firearm was discharged causing the death of another. You have struggled to come to terms with all of this. You have experienced feelings of guilt because at the time you were too scared to go outside to try and assist Mr Scott, even though it seems your son asked you to.

There is a strong argument that a conviction for perverting justice in circumstances where there was a shooting and a man died, should result in a sentence of actual imprisonment, because of the very clear need for general deterrence. However, because of the particular aspects of this case, including the minimal effect your acts actually had on the police investigation, the heightened emotional and anxious state you were obviously in when the crimes occurred, and your personal circumstances, I have determined it is appropriate to give you the opportunity to avoid actually serving a prison sentence. Accordingly, my intention is to impose a wholly suspended period of imprisonment. This means that provided you do not commit any other offence punishable by imprisonment during the period of suspension, you will not have to actually serve the sentence in prison.

Ms Maxwell, you are convicted of all matters. In respect to the summary charge, no further sentence is imposed. I order you pay costs of analysis to the State of Tasmania in the amount of \$197. In respect to the two crimes of perverting justice, you are sentenced to 7 months' imprisonment. The whole of that sentence will be suspended for a period of 18 months on condition that you are not to commit an offence punishable by imprisonment during that time.