

STATE OF TASMANIA v DAVID JOHN RAE
COMMENTS ON PASSING SENTENCE

28 MAY 2025
JAGO J

Mr Rae, you have pleaded guilty to one count of armed robbery. At approximately 11.20am on 16 July 2023, you entered Coles supermarket at Glenorchy. You were wearing a face mask and a hat. You made your way to the fresh meat section and collected a large quantity of meat and placed it in a trolley. You concealed the meat within two Coles freezer bags and proceeded to exit the store without paying. The complainant was a loss prevention officer, working at the store. He observed your behaviour. As you attempted to exit through the self-checkout area, he confronted you. He advised you that he was store security and directed you to pay for your items. You ignored him and continued to push the trolley towards the exit. You produced a knife, which had a blade approximately 15 centimetres in length, pointed it towards the complainant and said, "I will stab you."

Fearing that you would stab him, the complainant let you leave. The complainant and another colleague then followed you, at a distance, as you made your way from the supermarket. They observed you exit through the carpark and onto Wrights Avenue. At this point, the complainant and his colleague lost sight of you.

Police were called. They searched the Wrights Avenue area and recovered the freezer bags containing meat. The meat was valued at \$534.55. The freezer bags were subsequently sent for forensic analysis. A high-grade DNA match consistent with yours was returned. You were arrested on 17 July 2023. When interviewed by police, you said you could not remember doing it, but if you did, you were sorry.

You are 27 years of age. You were 25 at the time of the offending. You have two children, with whom you have a sporadic relationship. You have had a difficult upbringing. Both of your parents struggled with drug addiction. They separated when you were approximately ten years of age. Before that, however, you had been exposed to quite extreme family violence and constant drug use within the house. On occasion, your parents would give you drugs. When your parents separated, you relocated to Queensland with your mother and siblings. Your relationship with your mother was a difficult one, although in more recent times, you have made an effort to repair the relationship because, sadly, your mother has been diagnosed with ovarian cancer. Your relationship with your father has been largely non-existent. You made an effort to reconcile with him some years ago, but to no avail. He is currently in gaol.

You have struggled with a chronic drug addiction for most of your later teenage and adult life. You were 16 when your father first gave you methylamphetamine. Your ongoing difficulty with drug addiction is reflected in your record of prior convictions. You have many convictions for matters of dishonesty, committed both before and after this crime. Prior to this crime, there was a stealing matter in 2017, which was dealt with by way of an undertaking without conviction. In 2019, you were before the courts for driving offences, bail offences, and a matter of unlawfully possess dangerous article (a knife) in a public place. In December 2020, you were dealt with by the Magistrates Court for burglary and stealing offences, offences of behaving in a violent manner, trespass, stealing, offences contrary to the *Firearms Act*, offences contrary to the *Misuse of Drugs Act*, a number of offences contrary to the *Bail Act*, and some driving offences. By way of sentence, you received a six-month period of imprisonment, the execution of which was wholly suspended. Since this crime you have gone on to commit a large number of further offences including several matters of dishonesty, bail offences and offences involving unlawfully possessing a dangerous article, some of which involved you

having knives in shopping centres. In March 2024, you were sentenced to a 13-month period of imprisonment. You served nearly 10 months of that, and the balance was suspended. You were again before the Magistrates Court in May 2024 for matters of dishonesty. A Community Correction order was imposed. Then, in March 2025, you were again before the Magistrates Court for many offences of dishonesty and bail offences. The sentencing order resulted in previous periods of suspended imprisonment being activated, and for the new offending, a Drug Treatment Order with a custodial component of nine months, was imposed.

I accept your criminal conduct, both before and after the commission of this crime, is reflective of your continuing and entrenched drug addiction. I am told that in the short period of time since you have been on the drug treatment order, you have been doing well and appear to be committed to addressing your difficulties. You claim the periods of time you have recently spent in custody, have given you time to reflect and you now recognise that unless you address your drug addiction long term, you are destined for a cycle of drug addiction, crime and custody. Of course, it is very early stages into your time on the drug treatment order and it still remains to be seen whether you will remain sufficiently committed to undertake the hard work that will be necessary to successfully address your long-term drug addiction.

Your counsel submits that the opportunity for you to participate in the drug treatment programme is a significant turning point in your rehabilitation, and the sentence I imposed should not prevent you from continuing on it. I accept your participation in the Court Mandated Drug Diversion programme may well be an important tool in your rehabilitation, but of course, your rehabilitation is only one factor to which I must be minded in sentencing.

Armed robbery is a very serious crime, predominately because of the consequences to those who are robbed, and the danger such crime presents to any member of the public who happens to be in the vicinity at the time the crime is committed. Here, I have no information about the effect of your crime upon the complainant, but that does not mean the crime had no impact. It is common that victims of such robberies are often traumatised in a long term psychological way. At the time of the incident, there were other shoppers in close proximity to you. They, undoubtedly, would have witnessed your violence and, at the very least, felt a sense of apprehension and unease. Your crime was committed against a supermarket employee. Supermarkets are vulnerable to this type of behaviour, and people who work within them are entitled to be protected. You produced a knife of some length. Once a knife is introduced into a dynamic situation, the potential for serious injury manifests. This Court sees all too often significant harm and, on occasion, death, arising from the use of knives.

Whilst I sentence on the basis that you did not make any concerted effort to make physical contact with the complainant, the risk that that would eventuate existed. This is particularly so because you were drug affected at the time of this crime, to the extent that you cannot recall the incident. You were unlikely, therefore, to respond rationally or calmly if the complainant had reacted to your behaviour in any sort of panicked or agitated manner. Producing a knife in these circumstances is an inherently dangerous thing to do, and the risk of serious harm is obvious.

In my view, many robberies of this nature are committed by persons who are motivated by reasons associated with drug addiction, and whilst that might go some way to explaining the crime, it does not, to any extent, lessen the seriousness of it. Indeed, in my assessment, it adds to the need for the sentence to reflect general deterrence, in an endeavour to dissuade others from acting in the same way.

Whilst I accept that this was a relatively unsophisticated and naive endeavour, which did not, in fact, result in any significant financial benefit to you, it remains a serious crime. Principles of general and specific deterrence, together with denunciation, have much work to do in this sentencing exercise. I need to balance those considerations against your prospects of rehabilitation. The question I have been grappling with is whether it is justified to give you an opportunity to continue participating in the drug treatment order given the seriousness of this crime. I have decided that given the culture of substance abuse within which you grew up, and the entrenched nature of your addiction, if you are to have any real opportunity to reform, you will need help. The Court Mandated Drug Diversion programme provides you with the most realistic prospect of reform, and the start you have made on it, justifies, in my assessment, the placing of significant weight on rehabilitation as a sentencing consideration.

I have therefore determined it is appropriate that I give you the chance to continue with the programme. I intend to suspend the period of imprisonment imposed, but it will be a condition of suspension that you successfully complete the drug treatment programme. What that means, Mr Rae, is that if you fail to successfully complete the drug treatment order, not only will you face potential re-sentencing for matters in the Magistrates Court, but you will be in breach of the terms of the suspended sentence I impose and will face the risk of this sentence being activated.

I make the following orders. You are convicted of the crime of armed robbery and sentenced to imprisonment for a period of eighteen months. The whole of that period of imprisonment will be suspended on two conditions: firstly, that you commit no offence punishable by imprisonment during that time; and secondly, that you comply with all requirements and successfully complete the Court Mandated Drug Diversion Programme by way of achieving a cancellation reward pursuant to s27L of the *Sentencing Act*.