

THE STATE OF TASMANIA v BRODIE NORMAN BARWICK
COMMENTS ON PASSING SENTENCE

12 JUNE 2025
SHANAHAN CJ

Brodie Norman Barwick you have been convicted on your own plea of one count of attempted car-jacking contrary to s 240A(1)(b) and 299 of the *Criminal Code* ("Code").

I am also to sentence you, pursuant to s 385A of the Code, for the other matters to which you have pleaded guilty being counts 2 – 4 inclusive in complaint number 8544/24, namely one count of common assault contrary to s 35(1) of the *Police Offences Act 1935*, one count of using abusive language to a police officer contrary to s 34B(1)(b) of the *Police Offences Act 1935*, and one count of destroy property contrary to s 37(1) of the *Police Offences Act 1935* in that you unlawfully destroyed a weather shield and rear vision mirror the property of Aakash Pathak. Mr Pathak is the complainant.

On Saturday, 17 August 2024 the complainant, Mr Pathak, was working as an Uber driver, he commenced work at 5:00 pm and worked to approximately 8:30 pm before taking a break and re-commencing work at 10:00 pm. Mr Pathak was driving a blue Hyundai Accent with the registration number H53NB. Mr Pathak received a booking from Mr Barwick to pick him up from Saladin Circle, Clarendon Vale and transport him to Dodges Ferry. Mr Pathak picked Mr Barwick up at 10:48 pm. Mr Barwick got into the rear passenger side of Mr Pathak's vehicle and placed a carton of beer behind the driver's seat. Mr Pathak then drove the car towards Dodges Ferry, via Pass Road.

During the journey to Dodges Ferry Mr Pathak overheard Mr Barwick making a phone call and speak to a female. The accused asked the female where "Lucy" was and demanded that Lucy come to the phone and continued to ask where she was.

As Mr Pathak neared the intersection between Pass Road and Cambridge Road, he heard Mr Barwick say "*I am going to take this driver hostage until you tell me where you are*". The accused removed his seatbelt and moved across to the driver's side of the car. The accused put his right arm around the complainant's neck and held him in a headlock. That relates to count 2 on complaint number 8544/2024, the count of common assault.

Mr Barwick held his phone to Mr Pathak's ear and yelled at him to find out where Lucy was. He also yelled at the female to tell Mr Pathak where Lucy was. Mr Barwick moved in between the two front seats of the vehicle. He grabbed hold of the steering wheel and yelled that he was going to take the complainant's car. Mr Pathak immediately stopped the vehicle at the intersection between Pass Road and Cambridge Road, Mornington.

Mr Pathak believed that Mr Barwick was going to hurt him. He was terrified and feared for his safety. He immediately tried to flee by turning the ignition off and trying to remove the keys from the ignition. He was unable to remove the keys and had not put the vehicle into park mode. He screamed for help as loud as he could. He placed the gearstick of the vehicle in park and was able to remove the keys from the ignition. He ran from his vehicle.

Mr Pathak saw Mr Barwick position himself in the driver's seat of the vehicle and appeared to him to be doing something under the dashboard area of the vehicle. Mr Pathak continued to run, and Mr Barwick ran after him yelling. Mr Pathak ran until he reached a nearby property where he called triple zero and Mr Barwick returned to the complainant's vehicle.

Police arrived at the location where the complainant's vehicle had been abandoned and arrested Mr Barwick. He was transported to the Hobart police station. Mr Pathak returned to his vehicle and observed that a panel had been pulled off from underneath the dashboard. The front

passenger side where the weather shield had been smashed. A control knob was missing from the stereo and the rear vision mirror had been damaged. It is those matters that relate to count 4 on complaint 8544/2024, the charge of destroying property.

A beer can had been left in the rear driver's side footwell. During police interactions with Mr Barwick, he made abusive comments towards police. He called the officers "faggot", "fucking gay poofter" numerous times, and said, "I'll show you how to stop, fucking fags, man." He positioned his face very close to the attending officers' faces in an intimidating way. It is this conduct which relates to count 3 on complaint number 8544/2024, the charge of using abusive language to a police officer.

The accused was asked if he would like to participate in an interview with police and he declined. He was then charged, processed and remanded to appear in court in relation to the matter.

Mr Barwick, as at 28 March 2025, on the last occasion that we have all gathered, had been in custody for 222 days, he has now, as at 12 June 2025, in my calculation, been in custody for 297 days, just short of 10 months.

Mr Barwick does have relevant prior convictions for offending of a violent nature.

There is no Victim Impact Statement, but there is no doubt that this incident would have terrified Mr Pathak and in that regard I have the material facts that confirm he fled his vehicle and called triple 000.

There was an application made on 28 March 2025 pursuant to s 68(1) of the *Sentencing Act* 1997 for restitution in the amount of two hundred dollars to be paid to the complainant, Mr Pathak, for the cost of repairing the windscreen.

At the previous hearing, I was told in mitigation that the common denominator throughout these matters has been alcohol, and that it is evident Mr Barwick has a significant problem with alcohol and he is fully aware of that. At that stage of the hearing I adjourned the matter for a pre-sentence report. The Court now has a pre-sentence report dated 15 April 2025.

Mr Barwick was born on 15 May 1992 he is currently aged 33. He has had something of a troubled relationship with his family in adulthood as a result of excessive alcohol use and problematic behaviour, and I note that a restraint order protecting his parents and sister was served on 6 June 2024.

The pre-sentence report notes that Mr Barwick's father passed away in February of this year and that he and his mother have begun to reconcile and remain in contact since his father's passing.

Mr Barwick's first significant relationship lasted over 11 years and resulted in the birth of a child, now aged 9. I understand that relationship failed, in part, due to Mr Barwick's drinking. Mr Barwick no longer has contact with his former partner or their child. The record provided by the pre-sentence report reveals that Mr Barwick and his former partner were involved in 10 incidents of reported family violence between December 2016 and June 2020.

Mr Barwick was served with two 12 month Police Family Violence Orders in February and December 2019 and two Family Violence Orders in January 2018 and December 2019.

Mr Barwick then commenced a second significant relationship which lasted over two years before it ended in September 2023 due to his problematic alcohol use. That relationship was also characterised by family violence and Mr Barwick and his second partner were involved in two incidents of reported family violence between September 2023 and January 2024, and he was served with a Police Family Violence Order in October 2023.

Mr Barwick's third significant relationship ended following the events that lead to his current plea of guilty on these charges.

The twin themes of alcohol and violence are woven through the history set out in the pre-sentence report. Those themes are present throughout Mr Barwick's adult life. They have affected his financial position in that excessive alcohol use has impacted his ability to re-pay a personal and car loan.

Mr Barwick reported first using alcohol at age 13, progressing to daily use by age 16 years. Alcohol has been his nemesis. It has negatively affected his education, employment and relationships. It is said in the pre-sentence report that Mr Barwick now demonstrates some insight into his excessive alcohol use and aggressive behaviours. Further, that he identified a need to accept responsibility for his actions and address his substance abuse. Importantly, Mr Barwick has asked for help to remain abstinent from alcohol on release, he reported he would be open to targeted alcohol intervention and cited Holyoake as being his preference.

Such insight into his offending behaviour is a significant step forward but the process of rehabilitation is up to Mr Barwick. The courts can only offer offenders limited opportunities to pursue rehabilitation in the community because a tendency to violence, such as that shown by Mr Barwick, requires that the public be protected.

Prior to the current offending, Mr Barwick consumed a bottle of spirits and half a carton of beer in the context of an argument with his partner. It is clear that sort of behaviour has long characterised Mr Barwick's life and his relationships. Whilst Mr Barwick says that he is seeking to address his problem with alcohol, he is running out of opportunities to do so in the community.

Mr Barwick seeks to reside with his mother and sister upon release, the 12 month restraint order that would have prevented him doing so expired on 6 June 2025. Mr Barwick's mother has indicated that she is happy for Mr Barwick to reside in her home.

Mr Barwick is literate and numerate. He completed Year 11 at Rosny College. Even at that stage alcohol use affected his progress with him being suspended from high school on several occasions due to alcohol use and smoking. Mr Barwick has completed a painting apprenticeship through Tas Tafe. He has been employed as a painter for seven years and the pre-sentence report confirms that Mr Barwick will be returning to work full time as a painter on release.

Mr Barwick has an interest in music and plays drums and electric guitar, he was a member of the Rokeby Cricket Club but is concerned about the drinking culture which exists there and is unsure if he will continue that after his release.

Mr Barwick has expressed some remorse with regard to the victim, Mr Pathak, and has acknowledged that he did not deserve what happened to him. He has completed the Resilience program ceased alcohol use and has engaged in counselling. Again, these are positive steps. The challenge will be how Mr Barwick engages when he is released into the community.

Mr Barwick has been assessed as suitable for the imposition of a community service order. He has been assessed as having a high level of risks and needs, and a period of supervision is recommended. Obviously, any period of supervision would need to focus on Mr Barwick's alcohol use and anger issues. One such programme that is recommended is the "Gottawanna" Programme at Holyoake that targets interventions in respect of alcohol use. He has also been assessed as eligible for the EQUIPS Aggression Program to deal with violence issues.

Brodie Norman Barwick, you are convicted on the indictment and the summary matters being counts 2 – 4 inclusive in the complaint number 8544/24. I make a compensation order in favour of Aakash Pathak, pursuant to s 68(1) of the *Sentencing Act* 1997 in the sum of \$200. I impose one sentence. I sentence you to 15 months' imprisonment, backdated to 19 August 2024 with the balance of that term from today to be suspended for two years. It is a condition of that order that whilst in force you do not commit another offence punishable by imprisonment. That will start now. If you breach that condition, then a court must activate the suspended part of your sentence unless that is unjust.

In addition, I impose a condition on the suspended sentence that, for the two years that the term is suspended, and following your release, you will be subject to the supervision of a probation officer. The core conditions required by the *Sentencing Act* 1997 apply to this condition and will be set out in the order that you will be given. These include that you must report to a probation officer at the office of the Community Corrections in Hobart within three clear working days of your release, you must submit to supervision and comply with the directions given by your probation officer, you must not leave Tasmania without permission and you must notify any change of address.

In addition to the core conditions, the order will also include the following special conditions that you must, during the operational period of the order:

- (1) submit to the supervision of a Community Corrections officer as required by that officer;
- (2) attend educational and other programs, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to psychological or psychiatric assessment as directed by a probation officer.