

STATE OF TASMANIA v LJH
COMMENTS ON PASSING SENTENCE

CUTHBERTSON J
10 JUNE 2025

LJH, you have pleaded guilty to a charge of aggravated robbery. On 20 May 2023, you and two other youths, who I will refer to as JL and JM, made a plan to steal meat from the Woolworths supermarket in Howrah.

At 11.50 am, the three of you entered the store and went to the fresh meat section. At that time, JL had a knife concealed in his pants. When you got to the fresh meat section, JM took a quantity of meat and hid it in the jacket he was holding. You filled your backpack with trays of meat. JL stood beside you and acted as lookout to see if anyone was coming. The three of you were observed by staff as this was occurring. Once your backpack was full, the three of you ran down the aisle towards the exit of the store.

The two complainants, who were loss prevention officers employed by a security company, were on duty in plain clothes. They approached the three of you. One of them grabbed hold of your shirt. The other grabbed your backpack to stop you from stealing the meat. As this happened, JL and JM approached the complainants and an altercation broke out. JM punched one of the complainants and pushed him to the body while he had hold of you. You punched that same complainant, once to the face and once to the body. You and JM continued to push him. JL grabbed the other complainant and pushed him away. JM grabbed your clothing and tried to pull you away before removing himself from the altercation and running towards the exit of the store with a quantity of meat. One of the complainants told you that he was security for Woolworths and asked you three times to let go of your backpack. He took your backpack and emptied the contents back onto the shelves. There were approximately eight trays of meat recovered from your backpack. You then took your backpack and walked away from the complainants and towards JL who was standing a short distance away.

As the complainants walked towards the two of you, JL removed the knife from the waist band of his pants while facing in their direction. He held the knife out in front of him for a few seconds before putting it back in his pocket. This conduct of JL does not form a part of the charge against you. You, JL and JM then left the store. JM still had a quantity of meat in his possession.

You are guilty of the crime of aggravated robbery because you, JL and JM stole meat from the supermarket and used violence immediately after the stealing when the complainants tried to stop you. The State says that you are criminally responsible for your own acts and the acts of JL and JM except for JL's use of the knife. The State says that the crime of aggravated robbery was a probable consequence of the unlawful purpose all three of you had which was to steal the meat.

One of the complainants provided a victim impact statement to the Court. He described being unable to sleep the night after the incident because he felt anxious and stressed about what had happened. He had travelled from interstate to work in Hobart. After this occurred, he did not want to stay in Hobart because he felt anxious and scared that the three of you may return to the store and do the same thing.

You were 16 years old at the time of this offence. JL and JM were 15 years old. You have relevant prior matters. In February 2023 you were dealt with in the Youth Court for a large number of stealing charges, including stealing meat from supermarkets. A number of these

offences are associated with charges of trespass and common assault. It is open to conclude that you had been banned from a number of businesses because of your conduct. You were also sentenced for offences of disorderly conduct and abusing and resisting police. It is apparent from the details of those offences that many of them occurred in shopping centres and other public locations. These offences were committed between June 2021 and August 2022. You were ordered to perform 80 hours of community service and made the subject of a probation order. No convictions were recorded. The offence I am dealing with was committed while you were the subject of that order.

You had further matters dealt with in the Youth Court in February 2024. A number of those related to offending which occurred before you were sentenced in 2023. There was, however, a stealing charge from July 2023 which also involved the theft of meat. There was also a charge of disorderly conduct relating to January 2024 dealt with at that time. You were sentenced to perform a further 50 hours of community service on those complaints and the other matters you pleaded guilty to. It appears you were also dealt with for breaching the orders made in February 2023. The community service and probation orders were reinstated. I am told you have no other pending matters.

You are now 18 years old. You were originally charged with a more serious offence, namely aggravated armed robbery. Just prior to your matter being listed for trial, the State accepted your plea of guilty to the alternative charge of aggravated robbery. I note that aggravated robbery is not a prescribed offence and could have been dealt with in the Youth Court. It is most unfortunate that this did not occur. For the purposes of sentencing you, a Youth Justice presentence report was ordered by the Court.

You are the only child of your parents who separated when you were three years old. It is apparent that you have experienced considerable instability in your life, particularly when your family had difficulty finding stable accommodation. Around the time of this offence, you were living with your mother and step-father. There was conflict between you and your step-father and the situation at home was volatile. Likely as a consequence of your housing instability, you have been enrolled in a number of different schools. Your engagement at school deteriorated during grade 7, and ultimately in grades 8 and 9 you were offered a reduced timetable. It appears that you have had little engagement with secondary education since the end of grade 9.

It does however appear that your engagement with Youth Justice has been positive for you. During this time you made connections which helped you towards employment. You were referred to a transition to work program and a job provider to assist with job seeking and facilitating a Centrelink payment. You started receiving Youth Allowance in September 2023 after this offence occurred. You completed a Certificate 1 in Construction and Machinery at TAFE in 2024 and enjoyed that experience. You reflect that high school would have been better if it was more like TAFE.

You continue to live with your mother and have a good relationship with her. Your step-father is no longer living with your family. You have recently reconnected with your father who currently lives in Western Australia. This has been identified as a big positive for you. You have a girlfriend with whom you have been in a relationship for five years. She is also considered a positive influence on you. She works full time and encourages you to stay out of trouble.

Since July 2024 you have been working full time as a fencer. You speak positively about the routine and structure that full time employment has given you. You describe your work as hard, but find that it is a good emotional regulator and keeps you occupied. You speak of your boss and co-worker with respect. Your boss has provided a letter for the purposes of supporting you to obtain a working with vulnerable people card. He describes you in very glowing terms. You are described as highly reliable, responsible and trustworthy.

In 2023 you were diagnosed with Oppositional Defiant Disorder and prescribed melatonin to help you sleep. You have described yourself as someone who gets angry, but find the physical activity that you undertake at work to be a good outlet for frustration and anger as it keeps you busy.

You also have a history of drug use commencing in your early teens. At times your use of drugs has been heavy. In 2022 you engaged with the Link Youth Health Service where you were supported with illicit drug education and encouraged to reduce your cannabis use. At the time of your offending, it was normal for you and your peers to steal items to sell for money or to exchange for illicit substances. In 2023, that is at the time of this offence, you were using cannabis daily.

Since commencing work you have reduced your cannabis intake significantly. You advise that you still use it occasionally to assist with sleeping, although you would like to cease using entirely. You occasionally drink alcohol, although there is no suggestion that you do so to excess.

The report from Youth Justice indicates that throughout your engagement with them, you showed an understanding of consequences. You found the experience of working with Youth Justice a positive one. You explained it broadened your perspective on how your life can be, including how you spend your time, by showing you that there is more to life. You have reflected that in the past you were transient, and that hanging out and going to steal stuff seemed normal.

Youth Justice describe you as a young person who has demonstrated significant positive changes, including completing your certificate at TAFE and commencing full time employment. According to Youth Justice, this has created a routine for you and has allowed you to have further insight into the impact of offending behaviours. You are described as a young person who has support from your family and a long-term partner. You speak towards having a positive future, including plans to increase your workload and seek further independence. You have identified pro-social changes in your friendships, thinking and behaviours.

Youth Justice undertook a Youth Level of Service/Case Management Inventory assessment of you. You were assessed to be at low risk of re-offending. This is a significant change from their previous assessment completed in November 2023 where you were assessed as a moderate risk of re-offending. The reduction in your score according to that inventory reflects a pro-social shift in your choices and behaviours which have lasted for over 12 months. Youth Justice have indicated that if the Court is considering a community-based order under the *Youth Justice Act*, a release and adjourn order without Youth Justice supervision, but with a condition to be of good behaviour, is recommended. According to Youth Justice, this would encourage you to continue on your path of your rehabilitation, which is reflected in your employment and demonstrated stability.

Your counsel says that this offending was somewhat of a wakeup call. You have taken a number of positive steps which is reflected in you ceasing offending. You are very proud of your achievement in obtaining fulltime work. You have completed the community service orders that have previously been imposed upon you.

The State submits that offending of this type, which involves the use of violence towards employees in shops, including supermarkets, is a matter of significant community concern. Such offending causes a level of fear and apprehension on the part of staff. The State submits that people like the complainants are entitled to feel safe in their workplace. It is submitted that crimes of this nature require a sentence which reflects a general deterrence.

Your co-accused, JL, pleaded guilty to a charge of aggravated armed robbery and was sentenced in this Court to an order releasing him without conviction and adjourning the proceedings for 12 months on condition that he be of good behaviour and be subject to supervision from a Youth Justice worker. JL was younger than you at the time of the offending. It appears that he had a far less serious record of prior matters than you. He was of course the young person who held the knife.

I propose to deal with this matter pursuant to s 107(2) of the *Youth Justice Act*. I take that course for two reasons. First it is significant that the matter to which you have pleaded guilty and are now to be sentenced is not a prescribed offence and would ordinarily be dealt with in the Youth Justice Court. Second, I am satisfied that you have made significant changes in your life and it is appropriate given your age and circumstances to deal with you as a young person rather than as an adult.

Aggravated robbery is a serious offence. The complainants were understandably very shaken by your conduct. They should not have to deal with the sort of conduct you and your co-offenders engaged in that day. In the period prior to and at the time of this offence, it appears you were frequently stealing from stores and engaging in highly disruptive and anti-social conduct. It is a concern to me that you committed this offence at a time when you were subject to an order that you perform community service and were under the supervision of a Youth Justice officer. Such orders are accompanied by a condition that you be of good behaviour. By committing this offence, you breached that condition and only a very short time after those orders were made. It is significant, however, that you have subsequently complied with similar orders made in 2024. It seems to me the supervision and assistance provided by Youth Justice had not had sufficient time to start to make an impact in 2023 when you committed this offence. It is clear to me that the input of Youth Justice and your own efforts have resulted in significant change. I am satisfied that in the circumstances there is no need to impose further community service or supervision from Youth Justice. You have already made the sorts of changes in your life that one would hope to see in the context of such supervision. It is very pleasing to see that you have turned your life around. Your continued rehabilitation through work and pursuing pro-social activities is to be encouraged.

Pursuant to s 47(3)(A) of the *Youth Justice Act*, I must ensure that the matter of rehabilitation is given more weight than is given to any other individual matter. In light of the nature of your offending, your age, the sentences previously imposed upon you and on your co-offender JL, and the impact that any orders that I make will have on your future chances of finding or retaining employment, I am satisfied that it is appropriate to make an order pursuant to s 47(1)(d) of the *Youth Justice Act*. I order that you be released and that the proceedings adjourn

for a period of 12 months on condition that you do not commit a further offence punishable by imprisonment for the period of that adjournment. You will be discharged from that order when the period of the adjournment expires unless this Court revokes the order or makes another order under s 47 of the *Youth Justice Act* in relation this offence. If you breach the order by committing a further offence punishable by imprisonment, an application can be made for an order continuing the release and adjournment order as it is, extending the period of adjournment under the release and adjournment order, amending the conditions to which the release and adjournment order is subject or revoking the release and adjournment order and making any other order under s 47 in respect of the offence.

You should understand Mr H that if you breach this release and adjournment order, it is open to the Court to impose a more severe sentence.

In the circumstances, I will not record a conviction for similar reasons. In my view, it is important to encourage your continued rehabilitation. A conviction at this stage of your life, in circumstances where you have made such significant changes, would affect your ability to secure and retain employment in the future. That would not be in your best interests, or that of the community.

I also make an order pursuant to s 98(1) of the *Youth Justice Act*. I make a compensation order in favour of Woolworths Group Ltd in an amount to be assessed.