

Dayne John Robertson, you have been found guilty by a jury of aggravated carjacking. By that verdict, the jury was satisfied beyond reasonable doubt that on 27 January 2023 at Brady's Lookout Reserve, you in the company of Shae-Lee Parker, Liam Van Galen and Lela Spotswood assaulted Nadine Bryan with intent to take and drive, without consent, a BMW car. The State's case was that you were not a principal offender, but that you were criminally responsible on the basis of aiding and abetting the carjacking undertaken by the principal offenders, or that the aggravated carjacking was a probable consequence of the prosecution of a common unlawful purpose, namely the assault of Ms Bryan. It falls upon me to decide the basis of your criminal responsibility, consistent with the jury's verdict.

The circumstances of the attack upon Ms Bryan are largely uncontroversial. Ms Parker gave evidence that at some time prior to 27 January 2023 she had lent \$4,000 to Mr Burns and Ms Bryan. That money was part of the proceeds of a redress payment she had received from the State. Ms Parker also lent a phone she was no longer using to Ms Bryan. Shortly after lending the money and the phone to the couple, Ms Parker became aware that a further \$7,000 had been withdrawn from her bank account and credited to an account in the name of Ms Bryan. Ms Parker believed that this had been achieved by Ms Bryan accessing Ms Parker's phone banking application utilising the phone which she had failed to reset prior to providing it to Ms Bryan.

Ms Parker and Mr Van Galen were then in a relationship. It is apparent they had determined to confront Ms Bryan and Mr Burns about the money that had been taken and also retrieve the phone and sim card in order to prevent any further withdrawal of funds. Both were very angry with Ms Bryan and Mr Burns, particularly Ms Parker, who described the money she had obtained from the redress scheme as being for her child.

On 27 January 2023, Ms Parker received "intel" that Ms Bryan and Mr Burns were at Brady's Lookout as their car had broken down. At the time of receiving that information, you and your three co-accused were travelling in a vehicle together. The reason for you being in the vehicle is the subject of dispute. Ms Parker and Mr Van Galen both gave evidence during the trial that they were giving you and Ms Spotswood a lift at the time that they received this information. They claimed they told you they had to divert to Brady's Lookout and they would give you a lift later. Both were unable to recall where you wanted to be dropped off. During the course of your interview with police which was played during the trial, you were asked how you met up with the other three people that day. You told police that they were at a friend's place. You were asked if you just got in the car and went for a drive with them and you said yes. When asked what you planned on doing, you responded "not that, I was just, yeah, that was not planned to, yeah, so". Later in the interview you claimed to be driving out towards Exter to see their mate. When you were asked what was out at Exter you said "just a friend, we're going to see". You asked if the friend was one of the people that was in the car "no, none of the people were there, just, a high school friend I went to school with out there".

Ms Spotswood gave a different account to that given by Ms Parker and Mr Van Galen of how she came to be in the car. She said that she was home in Newnham when Ms Parker and Mr Van Galen turned up. They mentioned that money had been stolen off Ms Parker's child. She said that they were getting worked up about all this and she got led on by them. She gave evidence that Ms Parker said to her "can you like, can you be there and come with us", so she did. She described being in the car with Ms Parker and Mr Van Galen looking for Ms Bryan

and Mr Burns and getting "intel". She referred to knowing that Mr Burns had court that day and that they were looking for him in town when Ms Parker got the phone call indicating that they were at Brady's Lookout. This evidence is consistent with evidence given by Mr Burns that he was driving the BMW that day in order to get to court prior to it breaking down.

Ms Spotswood did not suggest that you were at her house when Ms Parker and Mr Van Galen turned up. I accept that you were picked up later. I do not accept, however, that Ms Parker and Mr Van Galen were simply giving you a lift. Whatever the reason you were in the car, I am satisfied that Ms Parker and Mr Van Galen were actively seeking to locate Mr Burns and Ms Bryan for the purpose of confronting them and had people looking out for them on their behalf. Further, Ms Parker gave evidence of deciding to take the opportunity to confront Mr Burns and Ms Bryan and that she told you and Ms Spotswood that she was going to do so. She said she told you she was going wreck Ms Bryan or something like that. I am satisfied beyond reasonable doubt that you at least knew that Ms Parker was intending to assault Ms Bryan during any confrontation at Brady's Lookout.

Also tendered during the trial was footage of the incident taken by a dash cam installed by Ms Parker in the Landcruiser. That footage was shared by Ms Parker after the event and later found its way into the hands of Ms Rushton, the registered owner of the BMW. She provided the footage to Tasmania Police.

The footage commences as the Landcruiser approaches the car park at Brady's Lookout. Ms Parker is clearly in a heightened state and can be heard stating "who gives a fuck man, car's broken down, speed up to it, go on". The BMW was in the car park with the bonnet up. Mr Burns was standing at the front of the BMW. The Landcruiser parked close to the BMW at which stage Ms Parker screamed at Mr Burns and Ms Bryan repeatedly "hey dog" before she got out of the Landcruiser and ran towards the driver's side of the car where Ms Bryan was seated. Mr Burns immediately ran away and was chased by Ms Spotswood and Mr Van Galen. Mr Van Galen was yelling at Mr Burns "fuck up cunt I am warning you, run boy, I will fucking break your fucking neck boy".

Meanwhile at the driver's side of the BMW, Ms Parker repeatedly struck Ms Bryan to the body while she is seated in the driver's seat and attempted to pull her out. Ms Parker also stomped on Ms Bryan's torso while demanding "get the fuck out of the car before you get it worse". Ms Bryan eventually got out of the BMW holding something in her hands which Ms Parker tried to prise from her. When she did not let go, Ms Parker punched her to the side of her face. Mr Van Galen ran back to the car with Ms Spotswood and attempted to remove the phone that Ms Bryan was holding from her hands. At this stage Ms Spotswood reached from behind Ms Bryan and punched her forcefully three times to rib cage screaming "let it go now".

During the course of this violence, you got out of the Landcruiser and positioned yourself behind the open driver's door of the BMW in close proximity to the action. You did not physically involve yourself in the assault of Ms Bryan but you are clearly saying things and appear to be keeping a look out for others. At one stage there is a comment made about \$6,000 being stolen which appears to be your voice. Contrary to what you said in your record of interview, there is not the least suggestion that you tried to stop the assault or calm any of the others down. Your conduct and appearance as captured in the footage gives every indication that you were willingly at that location and supported what was occurring.

During the course of the assault, multiple demands were made of Ms Bryan to get out of the car. After Ms Parker ceased her attack of Ms Bryan, Ms Spotswood guided Ms Bryan away from the BMW with her hands around her neck and shoulders. In the context of that evidence, I conclude beyond reasonable doubt that the assault of Ms Bryan was undertaken with the intention of retrieving the mobile phone she had in her possession but also with the intention of taking other available property in an attempt to recoup the money Ms Parker says was stolen. That property included the car. I am satisfied the intention to take the car was formed at least during the course of the assault on Ms Bryan. You then drove the car from Brady's Lookout after Ms Parker started it. That occurred shortly after Ms Bryan was lead away from the car under Ms Spotswood's control.

In the circumstances, I am satisfied beyond reasonable doubt that you aided the aggravated carjacking committed that day by being nearby, ready to provide assistance if necessary, generally keeping a look out and ultimately assisting by driving the car away. I am also satisfied that you knew the assault of Ms Bryan was intended to facilitate the taking of that car. I am satisfied you understood that was the case from at least the time demands were being made of Ms Bryan to get out of the car. I am also satisfied that your presence at the location, in circumstances where you knew that Ms Parker and Mr Van Galen intended to take the car, provided encouragement of the assault of Ms Bryan and the ultimate taking of the car.

The evidence on the trial was that the BMW broke down at Invermay and was ultimately taken to a wrecker and sold for \$250. It has not been recovered. You did not financially benefit from any of this conduct. Ms Parker, Mr Van Galen and Ms Spotswood have all pleaded guilty to the charge. Ms Parker and Mr Van Galen did so at an early opportunity and both have been sentenced. Ms Spotswood has yet to be sentenced as her plea of guilty came on the eve of the trial that was to be conducted jointly with you.

On 24 November 2023, Ms Parker was sentenced to 15 months' imprisonment with eight months suspended on condition that she submit to the supervision and directions of a probation officer and commit no offence punishable by imprisonment for two years. Mr Van Galen was sentenced on 29 September 2023 to 12 months' imprisonment with six months suspended on condition he commit no offence punishable by imprisonment for 18 months upon his release. Both were also sentenced in respect of a charge of common assault involving Mr Burns. Ms Parker was clearly the main offender in relation to this matter. She was 30 years old at the time of the offending and had significant priors for dishonesty matters. Her offending breached the terms of a suspended sentence imposed in March 2022. She was sentenced on the basis that she was the principal offender and the driving force behind and directing the events which included the taking of the car. Mr Van Galen had more limited prior convictions, although he had been the subject of a suspended sentence which had expired by the time this offending had occurred. He was 25 at the time of the offences. He participated in the assault of Ms Bryan, but not to the same extent as Ms Parker.

You are 29 years old. You were 27 years old at the time of committing this offence. You grew up in Northern Tasmania. Your father had a significant criminal history and spent time in prison when you were growing up. Your mother died suddenly when you were 9 years old. You have been living independently since you were about 15 years old. You are close to your older sister. You have three primary school aged children from a former relationship. They are in the care of child safety. It is evident you have not been able to provide a suitable environment for them. You were, however, having regular contact with them prior to being remanded in custody. You have a longstanding drug issue. You have used cannabis since you were 10 years old. You first

used methylamphetamine when you were 12 years old. Your use of substances and the associates you have as a consequence of your drug use have played a significant part in your history of offending, including this offence.

You have relevant prior matters. Your history of dishonest offending commenced when you were a youth. You have convictions for firearm, driving and drug offences. Your history of violent offending includes common assault in 2014 and common assaults and breaches of family violence orders between 2019-2021. You received suspended period of imprisonment for such matters on 4 February 2022. In On 25 January 2022 you were sentenced in this Court to a drug treatment order for offences of armed robbery and aggravated assault committed in 2020 with a custodial part of 21 months imprisonment. Your offending on this occasion breached the terms of both of those orders. On 26 June 2023, the drug treatment order was cancelled and you were sentenced to serve 18 months imprisonment.

You have been in custody in respect of this matter between 15-16 September 2024, 9 to 14 January 2025 and from 12 February 2025 until today. Your counsel has requested that I backdate any sentence of imprisonment to take into account these periods.

Aggravated carjacking is a serious offence. This is not, however, a serious example of such a crime. It arose from the grievance Ms Parker had with Ms Bryan and the taking of the car was largely opportunistic. I have no doubt Ms Parker was principally motivated to punish Ms Bryan and would have preferred to retrieve the money taken from her bank account rather than take the BMW. The violence directed at Ms Bryan was significant. The footage was difficult to watch. Such behaviour deserves a significant penalty, not only to deter you and others from like offending, but to denounce the conduct. I have regard to the sentences imposed on your co-offenders. While you had less involvement in the assault of Ms Bryan, your conduct, like that of Ms Parker, breached a suspended sentence. You are also not entitled to the mitigating benefit of a plea of guilty. You also breached the terms of a drug treatment order. I will impose a period of imprisonment, backdated to take account of the period of time you have already spent in custody, but suspend a portion of it to provide an incentive to you to stay away from drugs and from committing further offences.

Dayne John Robertson, you are convicted on the indictment. I make a compensation order in favour of Venecia Rushton in an amount to be assessed. You are sentenced to 12 months imprisonment backdated to 4 February 2025. I suspend 6 months of that sentence for 18 months from your release from prison on condition that you do not commit another offence punishable by imprisonment. If you breach that condition then a court must activate the suspended part of the sentence unless to do so would be unjust.