

STATE OF TASMANIA v KALE BRIAN GROVES
COMMENTS ON PASSING SENTENCE

4 JULY 2025
JAGO J

Mr Groves, you have pleaded guilty to one count of stealing a firearm and one count of aggravated assault. On 3 December 2023, you were at your parents' address in Burnie. You were living there at the time. You waited for your parents to go to sleep and then took the keys to your parents' motor vehicle. You also took a 20-gauge shotgun from your father's gun safe without his permission. You drove to Atkinson Street in Burnie. You went there apparently believing that a motor bike that had allegedly been stolen from you, may be at a residence in the area. You were also looking to source illicit drugs. You took the shotgun because apparently you were going to use it to "encourage" the return of the motor bike. In the lead up to this incident, you had been using illicit drugs and were badly affected by them at the time.

By pure chance, the complainant, who was unknown to you and who was aged 16 years, was walking in the area towards her home on Atkinson Street. She had left her father's residence and was returning to her mother's residence. As she approached Atkinson Street, she observed you in the vicinity of your vehicle. She then lost sight of you for a moment. As she approached her neighbour's house, you suddenly appeared and crossed the road towards her. As you approached her, she asked you if she knew you. You "shushed" her and grabbed her right wrist and hand, which was holding her mobile phone. She tried to pull her arm away from you, but you grabbed her upper arm. She then felt pressure against her stomach area. She looked down and saw that you were holding a firearm and you were pushing it into her stomach. You kept saying to her that you would shoot her if she did not get into the car with you. She tried to pull away from you. You started pulling her towards your car, still holding her by the right upper arm. In an act of bravery, the complainant grabbed the barrel of the firearm and tried to pull it away from you. She was screaming. She was scared. There was a tussle over the firearm. Eventually, she let go of it which caused you to stumble backwards. She was then able to run towards her home.

I pause there to note that you deny that you threatened to shoot her if she did not get into the car with you, and you deny that you tried to pull her towards the car. Because, in my view, this was a significantly aggravating feature of the crime, it was necessary to hear evidence on this issue. I heard evidence from both the complainant and from you. The complainant's evidence was compelling. She was clear and unwavering in her account. She presented as an impressive witness.

In contrast, I found your evidence to be non-sensical. You suggested that when you observed the complainant, you approached her and asked her where your motor bike was. You did not know this girl. There was no suggestion that she had anything to do with your missing motor bike. It is illogical that you would ask this of her. Moreover, by your own admission, you were badly affected by illicit drugs at the time. Indeed, in your evidence you claimed the drugs you had taken that evening made you feel "queer", and by inference, at least suggested that led to you behaving in a manner that you would not have otherwise. Despite the effect of the drugs on you, you claim a clear memory of the incident.

Without hesitation, I reject your evidence. It presented to me as a reconstruction and an endeavour by you to justify your appalling behaviour. I will sentence on the basis of the complainant's account. As noted, your behaviour in threatening to shoot the complainant and trying to pull her towards the car is a seriously aggravating aspect of this matter. The

complainant, as a 16 year old child, was confronted by a man she did not know, who was armed with a firearm and threatening to shoot her. It must have been simply terrifying.

Returning to the facts, after the complainant was able to run from you, you returned to your vehicle and drove away. The matter was reported to police and an investigation was commenced. The complainant identified you from a photo board. CCTV footage taken from your parents' residence, showed you leaving the residence in your parents' vehicle, travelling towards the offence location and returning to your parents' residence approximately seven minutes later.

On 7 December 2023, police executed a search warrant at your parents' residence. They located a gun safe, which was unlocked and insecure, the lock had been damaged, and a firearm was missing. A 20-gauge shotgun and a quantity of loose ammunition was found under your bed. Your father identified the firearm as the one that was missing from his gun safe. Later that same day, police became aware that you were flying into the Launceston airport. They attended and arrested you. They seized your mobile phone. A forensic examination of that phone revealed messages consistent with you being in the area when the incident occurred, and suggested your presence there was for the purpose of obtaining drugs.

You were charged and remanded in custody. You remained in custody until 5 September 2024, but some of the time you spent in custody has since been allocated to another sentencing order imposed by the Magistrates Court. It is an agreed position you have spent three months in custody which has not yet been allocated to a sentencing order.

Whilst in custody, you made some admissions to this matter whilst placing phone calls via the prison phone system. At one point, you told your partner, *"....cause I walked over there with the gun right, and they've just appeared out of fucking nowhere right, so I've shit 'em a little bit..."*. During another conversation, you told your mother, *"Went to go get my bike back...went to a place in Wynyard first where it was meant to be and then got given an address in Burnie...and I've just gone, gone to some random person's house I reckon, so I fucked up bad playing vigilante"*. At another point, you said, *"The person....that I met up with give me some stuff and after that I went queer in the head like. All I wanted to do was get the gun and go get my bike. I didn't give a fuck, so I don't know what he give me but it made me fucking queer"*.

The fact that you were so badly affected by illicit substances when this incident occurred is a significantly aggravating factor. You were behaving in an irrational and dangerous manner, and the risk that you may have caused serious harm to an innocent bystander whilst carrying a firearm in a drug effected state, is obvious.

It is submitted to me that the shotgun was not loaded. Whilst I have some doubts about that, given the ammunition that was found with the shotgun under your bed, there is no evidence which establishes the firearm was, in fact, loaded and therefore I should give you the benefit of the doubt as to that issue. Of course, the complainant was not to know that the firearm was not loaded. As far as she was concerned, you were pressing a firearm into her stomach and telling her that you were going to shoot her if she did not enter the car with you. It being unloaded was of no comfort to her whatsoever. Whilst its unloaded state obviously minimised the risk of physical injury from gunshot, it did not prevent you using the firearm to threaten her, harm her and scare her.

Your crime has had a significant, likely long term, adverse impact upon the complainant. She thought she was going to die. She thought she might be raped if you got her to the car. Quite simply, she has been severely traumatised by the incident. She is constantly anxious and emotional; is now prone to panic attacks, is hyper vigilant, has difficulty sleeping, has become socially withdrawn, and everyday things like seeing or hearing a car cause her great upset. Her schooling has been badly affected. Her life has been horribly impacted by your crime.

You are 36 years of age. You are in a long-term relationship with your partner, although that has been a very tumultuous relationship, and there is a history of family violence. You have a number of relevant prior convictions. You have seven convictions for matters of common assault. Many of these are in a family violence context. You also have prior convictions for offences contrary to the *Firearms Act*. Additionally, you have convictions for matters of dishonesty, matters contrary to the *Misuse of Drugs Act*, bail offences, driving offences and breaches of family violence order. Your record of prior convictions is reflective of a long-term drug addiction and a general disregard for the law.

Your drug abuse issues have been long standing. You were involved in a motor bike accident in February 2022. You sustained a broken spine and became a heavy user of pain medication. You were supplementing your use of this medication with the use of illicit substances. Your use of illicit substances has been to the point that you have developed drug induced schizophrenia. In the past, you have endeavoured to be assessed for participation in the Court Mandated Drug Diversion Programme because you recognise that you need assistance in addressing your drug addiction, but your mental health difficulties are such that you were deemed ineligible.

I take into account your plea of guilty. Although the value of that in mitigation has been substantially ameliorated by the fact the complainant was required to give evidence on the sentencing hearing. There nevertheless remains some value in the plea as the complainant was, at least, not required to give her evidence in front of a jury and be subject to a more fulsome cross-examination.

Undoubtedly, this is a very serious matter. You were wandering the streets of Burnie in the middle of the night, in a residential area, with a firearm you should never have had, whilst badly affected by illicit substances, intending to use that firearm for unlawful purposes, namely obtaining drugs and securing the return of your supposedly stolen motor bike. Instead, when you happened upon a young female who was unfortunate enough to be in the same area as you, you used the firearm to threaten her and subject her to a terrifying and traumatising experience. Society cannot tolerate the unlawful use of firearms in this way and it is necessary for the Court to condemn and punish such actions.

The only appropriate sentence is a significant term of imprisonment. I will allow for parole, but only after you have served a term which sufficiently addresses the need for punishment, deterrence and protection of the public.

Kale Brian Groves, you are convicted on each count on the indictment. I note an application for forfeiture of the firearm and ammunition and adjourn that to a date to be fixed. I impose one sentence. You are sentenced to imprisonment for two years and eight months from 3 April 2025 to take into account the three months of custody that has not been allocated to other sentences. I order that you are not eligible for parole until you have served 20 months of the sentence.