

STATE OF TASMANIA v ROBERT MICHAEL CUMMINGS
COMMENTS ON PASSING SENTENCE

3 JULY 2025
JAGO J

Mr Cummings, you have pleaded guilty to the crime of attempting to commit aggravated robbery. On 27 May 2024, at approximately 6.10am, you and two others, a female aged 24 and a male aged 16, travelled to the home of the complainant. The female knew the complainant and had previously visited his residence. You had information to suggest the complainant may be in possession of a particular photograph, which caused you some upset. The complainant was awoken by the sound of a vehicle entering his driveway. He observed you walk to his front door. You knocked on the front door. The complainant opened it. You said, "How's it going mate. I heard you are selling a bit". The complainant responded that he did not know who you were or what you were talking about. You responded by punching him to the face with a closed fist. The blow caused him to fall to the ground. You then demanded that he, "give us all your stuff".

You opened the front door to allow your two co-accused to enter. The complainant tried to flee into the lounge room, but you and the 16-year-old male followed him. The female went to search the residence for drugs. The 16-year-old picked up the complainant's guitar, which was in the lounge area and began to use it to threaten him. He demanded that the complainant, "give us your stuff or you're getting it". The 16-year-old struck the complainant with the guitar on several occasions before the complainant was able to grab hold of it. The 16-year-old then repeatedly kicked the complainant, causing an injury to his ribs and hip. While the 16-year-old was inflicting the violence upon the complainant, you were standing nearby saying words to the effect of, "Don't fight back. It will be over soon".

The female returned from her search of the complainant's bedroom and indicated she was unable to find anything. All three of you then left the residence.

The complainant followed the three of you outside and noted the registration number of the vehicle in which you had travelled. When you observed the complainant outside, you momentarily chased him before driving away. The complainant reported the matter to police. He attended the Northwest Regional Hospital. He had tenderness to the sternum and ribs, a graze to the right mandible and bi-lateral nose bleeds. All injuries were treated conservatively with basic pain relief.

You were arrested a few hours later and have been in custody since but, in the meantime, have been subject to a number of other sentences imposed by the Magistrates Court. You completed serving the last of those sentences on 6 February this year, thus the sentence I impose should commence on that date. I also note that given this sentence will come on top of you having already been in custody for quite some time, the principle of totality has application.

The complainant has been badly affected by this incident. Whilst his physical injuries healed without complication, he has been left with significant psychological harm. He is now hyper-vigilant, anxious, scared to go out and feels very uncomfortable around people with whom he is not familiar. He is constantly worried that something similar will again occur.

You are 35 years of age. You have an appalling record of prior convictions, including many convictions for offences of dishonesty and violence, both generally and in respect to family violence. You also have a terrible record for driving offences. In November 2020, you were sentenced by this Court for the crime of assault. That was in a family violence context. You

were sentenced to 15 months' imprisonment with eligibility for parole after you had served half. Since the imposition of that sentence, you have been sentenced to imprisonment for various offences on at least another six occasions.

I have not undertaken the analysis myself, but your counsel tells me that you instruct that you have spent some time in custody every year since 2009. That certainly seems consistent with my observations of your record of prior convictions. Whilst, of course, you are not to be re-sentenced for your record, it means you are not entitled to any leniency and specific deterrence is an important sentencing consideration.

I am told the past 12 months in custody have been difficult for you. You have been subject to a significant number of lock downs and you have also spent time in a dry cell, which is an additionally punitive environment. You instruct your counsel that you are determined to break the cycle that you have been living, essentially all of your adult life, namely illicit drug use, committing crime and going in and out of custody. You recognise you need ongoing assistance if you are to successfully make change. You receive an extensive NDIS package. You have been assessed as having a slow learning disorder and low IQ. Your NDIS worker has continued to support you during your current period in custody, and there will be a plan developed for your ultimate release. You have also engaged in a number of courses whilst you have been incarcerated and have sought out assistance in whatever form has been available within the prison environment. I have been provided with a letter confirming that you have completed the Resilience programme. I have also been provided with certificates, indicating that you have undertaken literacy programmes to develop your reading skills. You are on the wait list for drug and alcohol counselling and one-on-one counselling. You have engaged in therapeutic services directed at calming yourself and managing your anger.

You have three children and I am told that ultimately you would like to better yourself so that you can have some sort of meaningful relationship with them in the future.

I note your plea of guilty. You accept that this would have been a traumatic incident for the complainant, and you are sorry for what occurred.

I acknowledge the rehabilitative efforts that you are making but, of course, you are starting from a long way back, and whether they result in any permanent change remains to be seen. It can only be hoped that at some point with concentrated assistance, you are able to make the change that is necessary. Because I am satisfied you are trying, I will allow for parole.

That said, this is a very serious crime. In company with two others, you forced your way into the complainant's home and demanded he provide you with drugs. I should note there is no evidence the complainant was, in fact, in possession of any drugs beyond a small quantity of medicinal cannabis. You then offered violence to the complainant and stood by while your co-accused also used violence to inflict further injury upon the complainant, all this was directed at achieving your purpose of obtaining drugs. I have no doubt it was a terrifying experience for the complainant. He sustained some physical injuries, but more pointedly, the psychological effect of the crime upon him is likely to be long standing. People are entitled to feel safe within their own homes. You invaded his privacy and have left him feeling scared and uncertain. Such violence must be condemned and punished by the Court. In my assessment, a significant deterrence sentence is warranted.

You are convicted of the crime, and I impose a sentence of 18 months' imprisonment, backdated to 6 February 2025. You will not be eligible for parole until you have served ten months of that sentence.