

STATE OF TASMANIA v AARON GARROD FITZPATRICK
COMMENTS ON PASSING SENTENCE

15 OCTOBER 2025
SHANAHAN CJ

Aaron Garrod Fitzpatrick you have been convicted by the jury following your trial on indictment 130/2025. There are three counts, the first count is burglary contrary to s 244 of the *Criminal Code* 1924 ("Code"), the second is stealing contrary to s 234 of the Code and finally the third is stealing firearms and firearm parts contrary to s 234A(1) of the Code.

CCTV of the early hours of 8 January 2023 in Claremont shows three men and a white utility, in circumstances where the three men were said by the State to be you, Bradley Jones and Nicholas Coy. The jury's verdict shows that the jury accepted that you were one of the three men depicted in the CCTV. Bradley Jones has pleaded guilty to charges arising from the same incident.

About 5am on 8 January 2023, you, in company with Mr Jones and another man, broke into a shed in the rear of a residential property in Claremont. You broke into a firearm safe. You removed the safe door and stole five firearms which were stored in the safe. All the firearms were bolt action rifles with a total value of \$4,100.

In addition to the firearms, the total value of the items stolen in respect of count 2, which were valued on the basis of the owner's assessment was \$8,630. The items stolen included four chainsaws and seven cordless power tools with batteries and chargers. I note that Mr Jones was sentenced by Porter AJ on the basis that these items, the subject of count 2, were valued at \$7,000. In the interests of justice I propose to apply a similar figure in arriving at your sentence. The total values of goods stolen was over \$11,000, the offences were committed in the early morning and in a residential setting. The involvement of all three of you indicates some premeditation, cooperation and planning. It is unclear how this premises came to be targeted by you and your co-offenders.

The stolen items were carried down a track at the rear of the property. One of you walked to the white utility which was parked nearby and drove it a little way down a track toward the property. All of you loaded the stolen items into the tray of the utility and drove away.

At about 7am, the owner of the property noticed the break in and that items had been removed from the shed, he then contacted Tasmania Police. Officers attended the premises and forensic examinations were made of the shed. Forensic evidence gathered pointed to you and Mr Jones having been involved in these offences.

Insurance covered the tools and miscellaneous pieces of equipment, and damage to the gun safe, but the cover was limited to \$2,000 for the firearms. The owner had to pay an excess of \$400. The State submitted that the total effective loss to the complainant was some \$1,600, but of course the balance of any loss would be borne by the complainant's insurer.

The only items recovered were two rifles that police recovered from Mr Bradley Jones, being a .303 rifle and the Voere bolt-action rifle. I understand the Voere bolt-action rifle was given a value of \$1,200.

Mr Jones, who cooperated with police and who entered a plea of guilty, was sentenced by Porter AJ. Mr Jones was 28 years of age at the time, with a very extensive record of offending and considerable offending as a youth. The sentence imposed was 12 months' imprisonment with

five months suspended for two years coupled with a community correction order for a period of 18 months.

You are younger than Mr Jones but you also have an extensive criminal history. Your first conviction for stealing was some 11 years ago on 29 June 2011 albeit in the nature of petty theft, until other convictions for stealing on the 8 December 2012, 1 July and 13 August 2013, again for relatively small amounts. On 29 August 2016 complaints for stealing were dismissed and I take no account of them. Again you were convicted of stealing on 16 October 2021 and again for a small amount. You were pleaded guilty to aggravated burglary of a dwelling on complaint 3375/2023, which appears to relate to offending that occurred in December 2022. There is a further conviction for stealing in the nature of petty theft on complaint 3378/2023. Otherwise most of your convictions prior to this offending relate to traffic matters, drug-related offending and common assault, and breach of family violence orders.

Your convictions for aggravated burglary and burglary on complaint 3375/2023 represented, an escalation in your criminal behaviour and pre-date this offending which occurred in early 2023. I am to sentence you in the context of a history that shows a background pattern of petty theft and the other offences I have referred to escalating first to aggravated burglary and burglary in late 2022 and then to these offences in early 2023. It is troubling that these offences included five firearms. It is unclear whether these premises were targeted because of the existence of a gun safe.

It was put by the State that, given your lengthy and substantial criminal history, you do not come to this Court as a person of good character. I accept that submission and intend to sentence you on the basis that your offending has been slowly escalating until the offences in 2022 and 2023, and now includes the theft of firearms. Given that Mr Jones surrendered two of the stolen weapons, three of the five firearms remain at large.

I agree with the observations made by Porter AJ when sentencing Mr Jones that the theft of firearms requires strong condemnation. Unregulated firearms in the community are linked to serious criminal conduct and that is a matter of grave community concern.

The State submitted that your criminality and that of Mr Jones in committing the offences was similar but the penalty should be different for the following reasons, Mr Jones pleaded guilty, cooperated with police and surrendered two of the stolen firearms.

In mitigation it was put that Mr Jones was the prime mover in terms of the actual offending itself given his evidence. I am unable to be satisfied about that given Mr Jones presentation as a witness during your trial, the fact that he had been sentenced at the time he gave his evidence and the ambiguity surrounding the commission of these offences and the absence of evidence from the third man involved in the offending. I heard evidence as to the ownership of the white utility but the third man remains unidentified for the purposes of this sentencing.

It was submitted that any sentence should be backdated to 21 April of this year, and that is an agreed position.

I was told that at the time of this offending your life was really quite chaotic, you did not have a stable residence, you were moving from residence to residence and that is reflected in your becoming involved in this type of offending. Whilst it is easy to understand that submission

that is no excuse for your criminality and engaging in this type of burglary, especially involving weapons, which has obvious risks and costs to the community.

It was submitted on your behalf that there was effectively nothing that I could build into this sentence that is going to help you as you as that will be dealt with in respect of any parole order that is ultimately made, and that I can safely sentence in terms of this matter and let it stand alone.

You have been in custody for a significant period of time, and I am told that you have addressed your illicit substance use to the extent that you can whilst in custody. It is submitted that you are not using any illicit substances at the moment and have been sober for approximately a year. You have two children from previous relationships, I am told you are eager to be released from custody so you can establish a relationship with your children.

Aaron Garrod Fitzpatrick you are convicted on all three counts. Your offending in this regard whilst similar to that of Mr Jones is to be seen in a different frame. Unlike Mr Jones you did not cooperate with police. As a consequence of your offending a number of firearms have not been recovered.

A term of immediate imprisonment is necessary to express the need for general and specific deterrence. It is to be hoped that your sobriety represents a turning point in your life. Of course whether it does is a matter for you. I impose a single sentence. I sentence you to 18 months' imprisonment to commence on 21 April 2025 the execution of 9 months of which is suspended on the condition that you commit no offence punishable by imprisonment for a period of two years from the time of your release. I will not make a community supervision order as I am told that will ultimately be dealt with in the context of parole.