

STATE OF TASMANIA v SAMUEL DAVID WILLIAM MAPLE
COMMENTS ON PASSING SENTENCE

27 JUNE 2025
WOOD J

Samuel David William Maple was found guilty of a number of crimes committed on 21 March 2021, namely aggravated burglary (having offensive weapon or instrument or explosive substance), committing an unlawful act intended to cause bodily harm, stealing, and the crime of unlawfully setting fire to property. He was jointly charged with Mitchell Andrew Noel Allie who was found guilty of those crimes, Mr Allie was also found guilty of a second count of stealing as well as crimes committed two days before, on 19 March 2021, namely, aggravated burglary and stealing.

Mr Maple has also pleaded guilty to unrelated crimes that were committed on 31 May 2022 of aggravated burglary, stealing a firearm or firearm part, stealing, and possession or use of a firearm or firearm part by a person who is subject to a firearms prohibition order.

On 19 March 2021, Mitchell Allie entered the complainant's property at Schofield Drive, Sorell, stole three cannabis plants, and saw what he believed to be a sign of cannabis plants being grown indoors. He entered the unlocked house and stole three sets of car keys, being keys to a Hyundai Elantra, a Ford XR6 utility, and a Toyota Rav 4. The vehicles were parked on the property near the house.

The evidence regarding the events of 21 March was controversial. The facts I find to be established beyond reasonable doubt are as follows. On 21 March 2021, the defendant and Mitchell Allie obtained a lift to Sorell and were dropped off on the Arthur Highway at the intersection with Schofield Drive at around midday. They then walked a distance along the road to the complainant's property. They had a plastic bag containing a metal baton, a large Winchester hunting-style knife, and cable ties that formed a pair of handcuffs. Mr Maple carried the plastic bag for most of the time but both men were aware of its contents and shared a common unlawful purpose. Their shared purpose was to enter the property as trespassers in order to steal and use violence and the weapons if necessary. Their intention was to steal cannabis and perhaps other property from Mr Percy.

Mr Allie had the car keys he had stolen three days before. He intended to use the car keys to steal one of the motor vehicles and to use it as transport to get away from the property after the criminal escapade. I am not satisfied beyond reasonable doubt that the defendant knew about the car keys and Mr Allie's intention.

Once on the property, they entered the front gate where a dummy camera had been placed. It was not plugged in and not recording but the two men did not know that. In any event, they were completely undeterred by the camera. So far as they were concerned, they expected or assumed Mr Percy would not be reporting their conduct to the authorities because he would be concerned about revealing his own illegal activity in relation to cannabis.

The men went to the front door and knocked, and it was opened by the complainant. Mr Maple asked the complainant if he had seen a girl, his daughter, and that they knew she had been coming up there. This was a pretext, an excuse for calling upon the complainant and the violence that that were about carry out.

As the complainant was answering Mr Maple and telling him he did not know her and had no idea what he was talking about, the defendant Mr Allie struck the complainant with the metal

baton a number of times. At some point during the violence, the men stepped inside the front door.

Mr Maple punched the complainant, and he fell to the ground. He managed to kick Mr Maple. While the complainant was on the ground, he was stabbed to the back of the neck with the knife which had been in the plastic bag. He was stabbed from behind and did not see who inflicted the wound. It was likely Mr Maple who inflicted the wound, but I am not satisfied of that beyond reasonable doubt. For sentencing purposes, it is immaterial as both men are responsible, just as Mr Maple is responsible for Mr Allie's acts of striking the complainant with a metal baton.

The complainant was struck a total of approximately 10 to 15 times to his back, head, and legs. During the violence, he was calling out for help, but the defendants did not stop their attack.

I find that Mr Maple is guilty of the crime of committing an unlawful act intended to cause bodily harm on the basis of common purpose, pursuant to s 4 of the Code; ie that the crime was a probable consequence of an unlawful purpose shared by the men involving trespassing, stealing, and inflicting violence if necessary to overcome resistance. While he is not to be sentenced as if he intended the crime that was committed, his moral culpability is significant. He shared in the purpose of inflicting violence and violence with weapons if necessary. Once at the house and when the complainant had answered the door, he provided the pretext for the violence that immediately ensued and was an active participant in the attack, and together with Mr Allie assaulted the complainant.

After Mr Percy was stabbed and while he was on the ground, a bundle of cash in the amount of \$7,000 - \$8,000 fell out of his pocket and Mr Allie stole a large amount of it. Mr Maple was not found guilty of this crime and is not to be sentenced for it.

The defendant Mr Allie entered the RAV 4 and started the car. The complainant grabbed a blockbuster and approached the men. One of them said to him, "Don't call the cops, or I'll kill you". Mr Maple got into the car and Mr Allie accelerated and drove away at speed. Both men are guilty of stealing the motor vehicle; the defendant is an accessory in that he abetted Mr Allie in his act of taking and driving the car away from the property. I am not satisfied beyond reasonable doubt that he was a party to a plan formed before arriving at the property to steal a car using the stolen car keys, although, as I have said, he was a party to the theft of the car.

Mr Allie drove to Bakers Road at Penna. On the way, he contacted Mr Craig Rusher and offered him \$1,200 for him to pick them up and give them a lift.

The Toyota Rav 4 was driven onto a paddock and set alight by Mr Allie. Mr Maple is criminally responsible. The men shared a common intention to commit this crime in order to cover up their theft of the car and their link to Mr Percy.

It was early autumn and the paddocks were dry. The fire spread across the paddock and reached some nearby silage bales on the property, which caught alight. Fortunately, people were on their properties and the fire was put out.

Meanwhile, the complainant's son was in a shed on the property at Schofield Drive and received a phone call from his father. He found him bleeding in the presence of a neighbour who had heard a commotion.

The complainant was taken by ambulance to hospital and presented with his hair and clothing soaked in blood.

He sustained multiple bruises and a large gash on the back of his neck where he was stabbed with the knife.

He had two separate open wounds on his scalp: one on the occipital region, or the back of his head; and one on the parietal region, to the side of his head. Both wounds were approximately five centimetres long. I find these were caused by the application of force with the baton.

Mr Percy also had multiple long bruises across his back, buttocks, and left forearm, which I find were caused by blows inflicted by Mr Allie with the metal baton. These bruises were caused by the application of significant force.

He also had a large haematoma and swelling to the right ankle caused by blunt force trauma.

The neck and head lacerations were cleaned and sutured.

The defendant Mr Maple was interviewed by police. He denied any involvement, then lied and maintained that the complainant had attacked him and Mr Allie, which was completely untrue. He also said that he and Mr Allie just went there to buy drugs.

In relation to the crimes committed on 31 May 2022, the facts are as follows. At approximately 8:00 am, the defendant and his co-offender, Paul Leslie Triffett, arrived at a property at Magra in a white flat tray utility. The property was the residence of Shane Fowle.

The back door of the residence was forced open, and Mr Maple and his co-offender entered the house. Inside, CCTV footage captured their movements. They entered the spare room and located two safes that were locked. Mr Maple left and returned with a large crowbar and the two men worked together to try and jimmy open the safes. Mr Maple removed the wardrobe doors to allow better access to the safes.

The men obtained tools from a nearby unlocked shed and then used these tools in their efforts. Mr Maple used a small crowbar and hammer to jimmy the larger safe away from the wall, with Mr Triffett assisting by using a large mattock. Mr Triffett then dragged the safe out into the hallway.

Mr Maple began working on the smaller safe and tried to jimmy it away from the wall, with Mr Triffett assisting with the mattock.

Mr Maple entered the master bedroom and found another small safe in the wardrobe and removed it and placed it in the hallway. Meanwhile, Mr Triffett dislodged the small safe in the spare room and carried it into the hallway.

They then searched the rest of the house, taking various pieces of jewellery, documents, and household items. They were captured on CCTV footage leaving the residence at approximately 8:27 am having stolen a firearm safe; a 12-gauge Winchester shotgun, single barrel; a .22 Norinco bolt-action rifle with telescopic sight; a small digital safe; six or seven 12-gauge bird shot shells; approximately 20 or 30 .22 rounds of ammunition; personal documents, including passports and birth certificates; approximately \$700 in cash; a quantity of collectable coins and paper money; assorted jewellery; assorted power tools; a Rok jack hammer; and assorted keys. The total monetary value of the items was \$4,170.

Mr Fowle returned to his property soon after and discovered the missing property. He had seen a flat tray utility about 200 metres from his driveway travelling very fast with two occupants, the defendant and Mr Triffett, inside.

Shortly afterwards, the white utility was located by police on Falcon Road. Affixed to the vehicle were false number plates. The defendant and his co-offender were located by police and arrested. Police searched the foreshore and located some of the stolen property and items of clothing worn by the men. The recovered stolen property included the .22 Norinco bolt-action rifle with telescopic sight, five shotgun shells, approximately 60 rounds of .22 ammunition, household items, cash, and a Kinchrome tool case. The vehicle was searched, and police found the 12-gauge single barrel Winchester shotgun and Rok jackhammer.

The defendant participated in a video recorded interview. He made no admissions.

At the time of committing the crimes, the defendant was subject to a Firearms Prohibition Order which prohibited Mr Maple from possessing or using firearms. The order took effect on the date it was served on Mr Maple which was the 3 November 2015.

The burglary and theft from Mr Fowle's residence were professionally executed, involving planning and sustained efforts, and the targeting of valuable property of a kind that could be offloaded to criminals. The theft of firearms is particularly serious and especially in your case, when you were subject to a prohibition order. These crimes warrant a heavy sentence.

The defendant is aged 35. He has relevant prior convictions. In 2016, he was convicted of two offences of possess a firearm when not the holder of a firearm licence of the appropriate category and possess a shortened firearm concerning the same two firearms which attracted a term of six weeks' imprisonment. In 2021, he was convicted of two offences of possession of a firearm when not the holder of a firearm licence of the appropriate category and possess firearm part and ammunition.

He has a number of prior convictions for common assault, some of them involving the use of a weapon, and a conviction for conspiracy committed in 2013, which attracted a 12-month sentence of imprisonment. He has many for dishonesty, drug offences, and driving offences, including dangerous driving and evading police. He has an offence of common assault committed in May 2022.

The defendant has a long-standing drug problem. He has endeavoured to address that from time to time with some success but has fallen back into drug use. I note that when subject to a Drug Treatment Order, he made good progress before it was cancelled. As well as his personal struggle with addiction, he has struggled to resist the negative influence of others. The criminal incidents both arose in circumstances where he was using methamphetamine and subject to adverse influences.

In periods where he has made progress, he has obtained employment, and he has prospects of employment through a labour hire company on his release. He has secured work while in custody which demonstrates a good work ethic. He has the ongoing emotional and practical support of his family who also provide a positive influence.

The defendant has recently disclosed matters of trauma in his background during school years and is pursuing redress in relation to that. He is receiving counselling, and this intervention may prove to be significant, particularly in relation to his drug use. His mental health has

improved since this assistance has been available. The intervention may prove to be a positive development in terms of his rehabilitation.

I take into account that during the period of his remand, extensive "lock-downs" at the prison have been a very common occurrence and, as a result, a prison term is a more punitive environment resulting in prisoners spending significant time in their cells, and the cancellation of programs and pro-social activities such as exercise and visits.

While in prison, the defendant has participated in the EQUIPS Foundation program. This is a voluntary behaviour change program involving 16 sessions which the defendant has completed. I have a certificate of completion which reveals that he was an active and engaged participant. He is motivated to rebuild relationships with his family and has insight into the factors that lead to his offending. It is evident that he is motivated to address those factors.

I have a pre-sentence report dated 2 June 2025, which is positive. After the period of offending in 2021 and 2022, his life circumstances had improved significantly by the time he was remanded in custody. Prior to being remanded in custody, he had ceased contact with past criminal associates. He was working towards abstinence through engagement with Alcohol and Drug Services. He is motivated to remain abstinent, and I note he has been a participant in the suboxone program through Alcohol Drug Service since 2022 which he has found helpful. His life circumstances were improved, and he was working full-time and progressing towards purchasing his home. He had full-time care of one of his sons.

He has two sons and is engaging with Relationships Australia to demonstrate that he is able to be involved in their care when he is released from custody.

In determining the sentences for each of the two discrete incidents, there has been some reduction to take into account the cumulative effect of the sentences imposed so that the total period is not disproportionate to his overall criminality. In other words, the sentences for each incident of criminal offending would have been longer if they were being dealt with separately.

I have taken into account the sentence imposed upon Mr Allie in relation to the crimes committed on 21 March 2021. A sentence of 4 years' imprisonment was imposed for the crimes of aggravated burglary, committing an unlawful act intended to cause bodily harm, and stealing involving the cash. Mr Maple is not to be sentenced for the crime of stealing cash. Mr Allie received an additional sentence for his offending on 19 March which Mr Maple is not charged with. Mr Allie received 9 months' imprisonment for the crimes of stealing the vehicle and unlawfully setting fire to property to be served concurrently with the sentence of four years. I note that his culpability was greater because of his planning in taking the car-keys that he had stolen with him to Schofield Drive.

Mr Triffitt was also sentenced for other crimes which Mr Maple has not been charged with. In relation to the crimes of aggravated burglary, stealing a firearm or firearm part, and stealing, which Mr Maple has been charged with, Mr Triffitt was informed that I would have imposed a global sentence of 18 months but in the circumstances I imposed a sentence of 12 months to be served cumulatively with other sentences imposed. Totality was a consideration as it is for Mr Maple.

I have taken into account the differences between Mr Maple and his co-offenders in terms of Mr Maple's personal circumstances and prior convictions.

In relation to the crime of committing an unlawful act intended to cause bodily harm, there are serious features of this crime of violence. It was an appalling crime. It was a joint attack by two men with weapons upon an older, unsuspecting male. It was brazen behaviour carried out in broad daylight on Mr Percy's property. It was a cowardly attack; Mr Percy had no opportunity to arm himself or take steps to protect himself against such an attack. Neither of the defendants received any injuries, but Mr Percy was left badly injured, bleeding and, on their understanding, alone. He was struck by Mr Allie numerous times with a weapon, including to his back, and Mr Maple was a party to that. He was also stabbed from behind and Mr Maple is criminally responsible for that as well, regardless of who carried out that act. That particular act, as well as the other acts of violence, were a probable consequence of their shared purpose. The infliction of that knife injury to the neck area could so easily have been fatal.

It was a vicious and sustained attack, and it would have been, for Mr Percy, a terrifying ordeal.

There was some degree of planning, and the weapons were taken to the house with the purpose of using them if necessary to overcome resistance to a theft. Mr Maple shared that purpose, and once the situation erupted and the violence had commenced, the intention of both men was to continue that violence in a joint attack and to overwhelm the complainant. I find that Mr Maple had an intention to inflict bodily harm at the time that he punched Mr Percy. In terms of the balance of the time when the violence was being inflicted, his criminal responsibility is on the basis that all of that violence was a probable consequence of the purpose that he shared with Mr Allie.

The crime of committing an unlawful act intended to cause bodily harm is regarded as a very serious crime of violence because of the specific intent involved. Lengthy terms of imprisonment are almost always imposed for this crime. General deterrence and denunciation are prominent sentencing objectives. The defendant is not entitled to the mitigation that a plea of guilty would have attracted.

A point of distinction with Mr Allie is that Mr Maple did not have an intention to cause grievous bodily harm which was, in Mr Allie's case, an aggravating factor. This difference will be reflected in Mr Maple's sentence.

There are positive signs in terms of your rehabilitation as mentioned. The Court is still concerned to see you reform and integrate as a contributing member of society. Whilst you have not expressed remorse I do detect that you are someone who is remorseful and I suspect that you look back on your conduct with shame. While the nature of your offending is such that a heavy sentence cannot be avoided, weight is given to your reform by allowing an early opportunity for you to apply for parole, and also by suspending a portion of the sentence of imprisonment.

I record convictions. For the crimes of aggravated burglary and committing an unlawful act intended to cause bodily harm, I impose a global sentence of 3 years' imprisonment backdated to 24 June 2024.

For the crimes of stealing the vehicle and unlawfully setting fire to property, I impose 7 months' imprisonment which is to be served concurrently with that term of 3 years.

In relation to the crimes committed involving Mr Fowle's property, the crimes of aggravated burglary, stealing a firearm or firearm part, and stealing, I would have imposed 18 months'

imprisonment. Having regard to the length of the sentence just imposed, I will reduce that sentence to 12 months.

I impose an additional period of 5 months' imprisonment for the crime of possession or use of a firearm or firearm part by a person who is subject to a firearms prohibition order.

I suspend 3 months of the 12-month sentence and the entirety of the 5 months for the prohibition order. Accordingly, there is 8 months' imprisonment which is suspended. It is suspended on conditions that for 18 months from your release, you comply with a Community Correction Order that I now impose as an additional sentence which will be in place for a period of 18 months from the date of your release. You must comply with all the core conditions of the Community Correction Order and attend Community Corrections at 75 Liverpool Street, Hobart within 48 hours of your release. You must be subject to the supervision of a probation officer for 18 months and comply with all the reasonable and lawful directions of your officer.

The result is 3 years' and 9 months' imprisonment backdated to 24 June 2024. For each term of actual imprisonment, you are not to be eligible to apply for parole until you have served half of the term of imprisonment, so I allow the minimum non-parole period.

Pursuant to s 16 of the *Crime (Confiscation of Profits) Act* 1993, the metal baton and the Winchester knife are forfeited to the State.

Pursuant to s 68 of the *Sentencing Act* 1997, I make a compensation order in favour of James Dunbabin in an amount to be assessed, and I make a further compensation order in the sum of \$5,000 in favour of Renee Wallace.

Correction of Sentence - 22 September 2025

Her Honour noted the matter was listed pursuant to s 94 of the *Sentencing Act* to enable part of the sentence to be corrected. Her Honour explained that a correction was required given that s 17(2A) of the *Sentencing Act* applies to preclude a combination of a community correction order and an order allowing eligibility to apply for parole.

After hearing from counsel, the sentence was corrected effectively putting in place a period of supervised probation instead of a community correction order as a condition of each of the suspended sentences. The correction was in the following terms:

In relation to the suspended portions of the sentences of imprisonment, the condition requiring compliance with a Community Correction Order is removed. The substituted conditions are as follows:

For 18 months from the date of release, Mr Maple must not commit an offence punishable by imprisonment, and for the same period he is subject to a period of supervised probation. He must attend Community Corrections at 75 Liverpool Street, Hobart and report to a probation officer within 48 hours of his release. He must then report as required by a probation officer. He must comply with all reasonable and lawful directions of a probation officer or supervisor as required. He must not leave or remain outside Tasmania without the written permission of his probation officer. He must give notice of any change of address or employment within two working days after the change. He must submit to the supervision of his probation officer as required for a period of 18 months from the date of release.

Mr Maple remains eligible to apply for parole as originally sentenced.