

Mr Lee, you have pleaded guilty to one count of aggravated burglary and one count of aggravated robbery. You also accept that your commission of these crimes was in breach of a suspended sentence of imprisonment for 10 weeks which was imposed on you by a magistrate on 19 April 2023.

The crimes were committed on 18 March 2025. At 8:25 pm, you and another man unlawfully entered the home of the complainant with the intention of stealing from him. He was at home at the time. You were known to the complainant and you gained entry by knocking on the door and asking for him to provide you with some food and other items. This was obviously a subterfuge to facilitate what happened next. He provided these items to you and asked you to leave. A short time later, you knocked again, this time you were in company with your co-offender, who also asked for something. When the complainant refused, your co-offender pushed him back so that you and he could enter the unit. He tried to resist your entry but your companion overcame that resistance by assaulting him. He punched the complainant to the face at least twice and knocked him to the ground. The complainant's nose started to bleed and he sustained minor lacerations to his nose and right ear and bruising to the top of his right hip. You were present while this was happening and did nothing to intervene or assist the complainant. After this, you and your companion walked through the unit, searching for property to steal. You found and stole his wallet which contained \$1,000 in cash, some bank cards in the name of his businesses, some personal identification cards, two mobile phones and some bottles of cologne. The mobile phones have been recovered but not the balance of the property. You have not identified your co-offender.

You were 28 years of age when you committed this crime. Until 2023, your criminal history consisted only of traffic offences. The suspended sentence was imposed for family violence offences which included three counts of assault and one count of emotional abuse or intimidation. It is clear from the particulars of these offences that they involved significant violence and the emotional abuse or intimidation was at a serious level. On 18 July 2024, you were sentenced to a total of 39 days in prison for a number of offences committed after the imposition of the suspended sentence, although it does not seem that an application was made for the activation of that sentence. The sentence of imprisonment was imposed for the offences of receiving stolen property, failing to appear in court, driving with illicit drug present in your oral fluid and evading police with aggravated circumstances. You must have been released from prison in around September 2024. You committed the crime with which I am dealing approximately six months later. This history suggests that you had not been deterred from the serious criminal conduct constituted by this crime by either the suspended sentence or having served some time in prison.

Your counsel submits that you were in the grip of addiction to methylamphetamine when you committed the prior offences and the crime with which I am dealing. I am told that your mental health was poor, although there is no independent evidence to support this, and that you did not have stable accommodation or employment at the time. Your counsel puts to me that since committing this crime, you have given up using drugs and have pursued a path of rehabilitation. In particular, you have obtained stable employment and are actively involved in the life of your church. I have been given a letter from another member of the church that attests to the progress you have made. Your counsel also submits that you are remorseful and points to your early plea

of guilty in that regard. I accept that you entered a plea of guilty at an early opportunity, in fact when the matter came before the Magistrates Court. In respect of the application to activate the suspended sentence, it is put to me that I should be of the opinion that it would be unjust to activate that sentence, both because of your rehabilitation and the fact that the offences to which it relates are different to the crime committed by you on this occasion.

I regard this crime as serious. In company with another, you invaded the complainant's home for the purpose of stealing from him. When he resisted your entry, your co-offender assaulted him, causing some injury. You did nothing to stop this happening and indeed continued with the theft of the complainant's property after he had been assaulted. The invasion of a person's home in such a way for such purposes is a matter of significant concern. The complainant was entitled to feel safe in his own home. In the Court of Criminal Appeal decision of *Walker* [2025] TASCCA 11, I made it clear that home invasions involve a high degree of objective seriousness and will usually incur severe punishment. General deterrence is a pre-eminent sentencing consideration. Further, in this case, it is clear that there was some planning and premeditation at least to the extent that you would forcibly enter and steal property. You knew the complainant was at home, and this did not deter you and your co-accused from committing the crime. I am told that the complainant's injuries did not result in any lasting consequence and he has not provided a victim impact statement, but the use of violence in this way must have been frightening and have had some impact on him. Conduct of this nature has no place in our community. A sentence emphasising general deterrence and denunciation is required.

I am also satisfied that personal deterrence requires some emphasis in the sentence. You committed this crime while subject to a suspended sentence and a relatively short time after release from prison on other offending. I find it difficult to accept your claim of genuine remorse, particularly given that a large portion of the complainant's property has not been returned to him and that you have not identified your co-offender. Having said this, I agree that you should receive credit for your early plea of guilty. I do not accept that it is consistent with true remorse and insight but it has had significant utilitarian value and, in particular, has avoided the need for the complainant to give evidence against you at a trial. In my view, the only appropriate sentence in this case, is a significant term of imprisonment. However, I will suspend part of the sentence. My reason for doing so is to recognise your early plea of guilty and to facilitate ongoing supervision. This will hopefully support your ongoing attempt to rehabilitate.

In relation to the suspended sentence, the legislation is clear that upon commission of an imprisonable offence during the period of suspension, I am required to activate the sentence unless I am of the opinion that it would be unjust to do so. In this case, I am not of that opinion and accordingly the sentence must be activated. I reject the submission that the sentence has had the intended mitigatory effect. There is no force in the argument that I should form an opinion that it is unjust to activate the suspended sentence because it was imposed for family violence offences and this crime does not involve family violence. They both involve serious acts of violence, and there is no material distinction in terms of your culpability. The fact that you will commit a crime like this in breach of the terms of suspension towards the end of the period of suspension itself demonstrates that the sentence had not had the intended rehabilitated impact. The sentence must be activated.

The orders I make are as follows:

- 1 You are convicted of the crimes to which you have pleaded guilty;
- 2 The sentence of 10 weeks imprisonment imposed by the Magistrates Court on 19 April 2023 is activated and will be backdated and served from 16 March 2026. You are not eligible for parole until you have served one half of that sentence.
- 3 For the crimes of aggravated burglary and aggravated robbery, I impose a global sentence of imprisonment for a term of 18 months. That sentence will be served cumulatively on the activated suspended sentence. The last six months of the sentence will be suspended for a period of 18 months on the following conditions:
 - a that you are not to commit another offence punishable by imprisonment during that period.
 - b that you will be subject to the supervision of a probation officer. You must comply with this condition for a period of 18 months. That period will commence from when you lawfully cease to be imprisoned under this sentence. The Court notes that the conditions referred to in s 24(5B) of the *Sentencing Act* apply to this condition. These include that you must report to a probation officer within three clear days of the day that you lawfully cease to be imprisoned under the sentence. In addition to the core conditions the order shall also include the following special conditions:
 - (a) *you must, during the operational period of the order,*
 - i *attend educational and other programs as directed by the court or a probation officer;*
 - ii *submit to the supervision of a probation officer as required by the probation officer;*
 - iii *undergo assessment and treatment for drug dependency as directed by a probation officer;*
 - iv *submit to testing for drug use as directed by a probation officer;*
 - v *submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;*
 - vi *attend, participate in and complete the EQUIPS addiction program as directed*
- 4 You are not eligible for parole in respect of the operative part of the sentence until you have served one half of that sentence, that is a period of six months.
- 5 For the purposes of S 92A(3) of the *Sentencing Act*, I specify that:
 - a the total term of imprisonment which you are liable to serve in respect of all of the above sentences is 12 months and 10 weeks commencing on 16 March 2026
 - b The total period that you must serve before you become eligible for parole is the aggregate of the non-parole periods relating to the said sentences, which is a total period of six months and five weeks.
- 6 I make a compensation order in favour of Grant Bourke in a sum to be assessed and I adjourn assessment sine die.