

IN THE COUNTY COURT  
OF VICTORIA  
AT MELBOURNE

Court Ref: CR-18-01194

Director of Public Prosecutions (Vic)

and

Harley Cartwright

Accused

### **OUTLINE OF SUBMISSIONS ON PLEA**

1. The following is an outline of the matters to be relied upon by the Accused, Harley Cartwright, at his plea hearing.

#### Part A: Circumstances of the Offending:

2. The circumstances of the offending are well known to the Court.
3. As to the background to the offending, the Accused says as follows:
  - (i) At the time, he had recently been released from jail and had returned to live in Sunbury with friends. He was associating with other drug using and drug affected young people.
  - (ii) He of course knew [REDACTED] (who was a family friend) and the [REDACTED] [REDACTED] generally. He had dropped out of contact with them, but knew that [REDACTED] owned the Holden Monaro.
  - (iii) In discussion with others the criminal escapade was formulated; it was decided that they would take the Monaro and go "joy riding".

- (iv) The Accused had been heavily using methylamphetamines (ice) for days leading up to the offending, and was under the influence of that drug.
- (v) He went with others to the home at Craigeburn, where he made the telephone call to [REDACTED]. [REDACTED] had left to go to work.

He waited outside the house while others went in – to get the Monaro keys and then give them to him, so he could drive the Monaro away. The others eventually came out and told him that there were no keys to the Monaro. Somebody from the group gave him the keys that they had taken ([REDACTED]). He jumped in Commodore and drove away.

He did not know that a knife was to be used, and is still not certain that a knife was in fact used.

- (vi) Although self evidently there was an element of pre planning, the incident itself happened quickly. He agrees that it would have been traumatic for [REDACTED], [REDACTED] and [REDACTED].

He is now very sorry that it happened. He apologises to the [REDACTED] family, who he knows to be good people and long time friends of his family.

He knows that he will do jail time as a punishment.

- 4. It is conceded that the offending is clearly serious and deserving of a term of imprisonment.
- 5. It is noted that there are no mandatory minimum terms applicable to the charges.

#### Part B: Criminal Record:

- 6. The Accused has a prior criminal record:

7. In Victoria, the record relates exclusively to Magistrates' Court and Children's Court appearances.

- (i) Most recently, the first 7 pages relate to the appearance of 23<sup>rd</sup> August, 2017. He had been taken into custody in early July. The matter was a consolidation of some assault matters, but mainly car thefts and drugs. 4 months imprisonment was imposed, then a CCO for 12 months. He was released in early November, 2017.

This offending happened about a month after his release.

- (ii) He had been in a Youth Detention Centre for about 4 months in 2013, before being released to youth parole. Also, a CCO was imposed in 2014 and not breached.

- (iii) Apart from that, he has Children's Court matters that are now fairly dated.

8. In 2015 he decided to geographically distance himself from Victoria. He drove through NSW and eventually up to North Queensland. In New South Wales he was arrested for exceeding .05%.

9. He lived in Cairns, North Queensland in 2016. In Queensland, in February, 2017 he was taken into custody for dangerous driving and other offences. He spent 2 months in Townsville Correctional Centre before being released.

10. He then returned to Victoria where he was placed into custody in July 2017. The sentence of 23<sup>rd</sup> August, 2017 – noted above – means that he was in custody for most of 2017.

11. Because of the offending on 7<sup>th</sup> December, 2017, he has now also been in custody for all of 2018 and 2019.

12. It of course can be reasonably said that his criminal records do him no credit at all. It is noted that the vast majority of the offending relates to drugs and driving.

Part C: Personal Circumstances:

13. By way of summary statement, the circumstances of the life of the Accused are as follows:

- (i) He is now 25 years old.
- (ii) He moved around extensively as a child, particularly after the death of his eldest brother.
- (iii) He was the youngest of 4 boys. His oldest brother – who the Accused looked up to – died in a car accident in 2002. The driver was charged with Culpable Driving and ultimately acquitted (although being found guilty of the lesser charge of Dangerous Driving). The loss of his brother caused high level of turbulence to both the Accused and his entire family.
- (iv) Largely because of that event, his parents separated in 2003. It was a bitter separation. His father and the Accused's 2 brothers lived in Sunbury, while the Accused, being the youngest, was taken by his mother to live in the family holiday home in Jamieson.
- (v) Thereafter, he moved frequently between Jamieson and Sunbury. He encountered trouble with the Police while in Jamieson.
- (vi) His mother is [REDACTED] and his father is [REDACTED]. Despite the bitterness of the separation, they are now on reasonable terms. His father remarried, though is now semi retired and again divorced. His mother continues to live in Jamieson.
- (vii) He left school when 15 years old.
- (viii) In 2012, when 18 years old, he commenced – though did not complete – an apprenticeship as a plumber (which was also his father's occupation). He has work available to him when released from custody.

- (ix) Much of his post schooling life has been blighted by poor peer group selection and heavy drug and alcohol abuse. He was heavily involved in that lifestyle at the time of this offending.

Part D: Delay and Guilty Pleas:

- 14. The Accused was originally charged with more serious offending.
- 15. Notwithstanding that a Trial was commenced in the County Court, the Accused has at all times indicated that he would plead guilty to the charges that are now before the Court for sentencing.
- 16. Despite the delay, his guilty pleas should be considered as having been entered at the first available opportunity.
- 17. His guilty pleas are relevant in three ways:
  - (i) He is remorseful for his offending.
  - (ii) He has accepted responsibility for the offending; and
  - (iii) He has offered to spare the time and expense of a fully contested criminal Trial.
- 18. By way of instructions, he did not want to expose the Campbell family to the ordeal of giving evidence, either at the contested committal hearing, nor at the subsequent Trial.

Part E: Time in custody:

- 19. He is housed in a mainstream, working unit at the Metropolitan Remand Centre. There have been no problems or discipline issues. He works in the metal fabrication area.

20. He has undergone random drug testing – and, despite some early issues, all recent testing has been clear.
21. During the period of delay, he has undertaken extensive one on one counseling regarding the consequences of drug addiction.
22. He is now thinking positively about his future. He has resolved that, upon release he will go back to work and will stay drugs.

Part F: Prospects of Rehabilitation:

23. It is submitted that, despite significant transgressions in his still relatively young life, the Accused's prospects of rehabilitation should be assessed as conditionally good.
24. In this regard:
  - (i) He retains the support of his family as well as other people who have written references concerning his good character.
  - (ii) He will be accommodated by his father in Sunbury upon his release from custody.
  - (iii) He has employment available to him.
  - (iv) He has undertaken an extensive process of drug rehabilitation while in custody.
  - (v) He is not psychiatrically unwell.
25. It is accepted that his prospects of rehabilitation are, of course, tied to the question of whether he is able to abstain from illicit drug use in the future.

Part G: Disposition:

24. It is accepted that the Accused will be sentenced to a term of imprisonment.
25. He has already done 19 months of imprisonment on remand and the he remains hopeful that he will become eligible to apply for parole in the reasonably foreseeable future.
26. In order to enhance his prospects of rehabilitation, it would be open to the Court to impose a shorter than usual minimum term as a proportion of the head sentence of imprisonment.

Chris Pearson

Counsel for the Accused  
3<sup>rd</sup> July, 2019