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THE SUPREME COURT OF
THE NORTHERN TERRITORY

SC 20911694

THE QUEEN

and

JEREMIAH WALKER

(Sentence)

MARTIN, CJ

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON THURSDAY 29 OCTOBER 2009

Certified a true transcript of a record.

Transcribed by:
Merrill Legal Solutions

HIS HONOUR: Mr Walker, you have pleaded guilty to three offences arising out of events on 27 March 2009 when you unlawfully entered premises and, subsequently, assaulted police officers who were acting in the execution of their duty in trying to arrest you. At the time of the offences you were suffering from impaired cognitive functioning falling short of mental impairment, but seriously affecting your mental functioning.

The first offence to which you have pleaded guilty is unlawfully entering a building with intent to commit a simple offence in the circumstances of aggravation that the building was a dwelling house and the unlawful entry occurred at night-time. The maximum penalty for this offence is four years imprisonment.

The second and third offences were both offences of unlawfully assaulting a police officer in the execution of his duty. The maximum penalty for each of those offences is five years imprisonment.

It is important to set out the background in order to fully understand your mental functioning and motivation. You are now 34 years of age. You were born in Alice Springs and raised by your mother's family. It appears that you were exposed to some degree of domestic violence, but you told a psychiatrist who prepared a report for the assistance of the court that your family was well education and you believe that you came from a loving and supportive family. Having achieved year 9 level at the age of 15, you left school as you were frequently absent with your peers. After leaving school you worked as a bricklayer, but you were unsure when speaking to the psychiatrist how many jobs you have had and you could not tell the psychiatrist when you last worked.

It appears likely that over many years you have suffered from hallucinations and persecutory beliefs. Your family has informed counsel that it was common for you to be up all night frightened of imagined enemies and experiencing hallucinations. The precise cause of these difficulties is unknown, but it appears likely that your mental state was exacerbated some years ago when acid was placed in your alcoholic drink which resulted in admission to hospital. You told the psychiatrist that there have been other attempts on your life by people who did not like you and were jealous of your music or did not like you talking to their wives. Your irrational thoughts include a fear of birds. In the opinion of the psychiatrist, when he saw you in September 2009 you were suffering from delusions of persecution secondary to a psychosis consistent with a differential diagnosis including schizophrenia, schizo affective disorder or delusional disorder.

You have a long record of prior offending dating back to 1991. Many of the offences are concerned with breaches of the road traffic rules, particularly driving while affected by alcohol and while unlicensed. However, your offending also includes crimes of violence and dishonesty. In September and October 2006 you committed four offences of assault in aggravating circumstances and on 31 August 2007 you committed two further offences of assault in aggravating circumstances. Sentences of imprisonment have not deterred you from committing further offences.

Alcohol has obviously been major problem which has exacerbated your mental state and greatly increased your risk of offending. On the day of the offences you had spent most of the day consuming alcohol and using cannabis. This combination was a recipe for disaster and it resulted in you experiencing an irrational fear and panic in the belief that a number of people were chasing you with an intention to harm you. It is obvious that your bizarre and dangerous behaviour was directly linked to your impaired mental functioning and your delusional beliefs. It is against this background that your criminal conduct must be considered.

Early in the evening of Friday 27 March 2009 you were drinking beer in various town camps in the southern area of Alice Springs. After spending time at Little Sisters Camp, you left the camp driving a vehicle with a female passenger who asked you to drive her back to Old Timers Camp. However, you took another route saying you wanted to see someone on Bloomfield Street and when you turned into Bloomfield Street you increased the speed of the vehicle dramatically. The passenger asked you again to drive her to Old Timers Camp, but you grabbed her with your left hand and said 'Me and you, we're both gunna have an accident tonight. We're gunna drive around til police lock me up'.

Fearing for her safety, the passenger reached across the vehicle and attempted to turn off the ignition key. In the process she knocked the transmission into neutral. You then hit the passenger in the right cheek and braked hard coming to rest near the middle of the road opposite number 45 Bloomfield Street. No charges were laid as a consequence of your striking the passenger because she did not wish you to be prosecuted.

After stopping near the middle of the road, you entered the yard of 45 Bloomfield Street and, opening a door, walked into the residence. The occupant grabbed you and forced you onto the footpath. You made your way south and ran into a neighbouring property at 47 Bloomfield Street where you approached three female occupants who were sitting in the backyard. You crouched down, grabbed the legs of one of the females and repeatedly said, 'Call the police'. You appeared disoriented and panicky. The occupants described you as 'really frightened' and said you were not aggressive. You were ushered to the front gate while one of the occupants rang 000.

You then proceeded further south on Bloomfield Street and climbed over the front fence number 51. Residents at number 49 saw you and told you to get out of the yard. You ran into the rear yard of number 51. Later at hospital you told police that you were being chased by 20 blokes.

The study window on one side of the residence was smashed allowing you to gain entry into the house. It appears uncertain whether you smashed the window with part of your body or an object or whether, as you believe, you literally jumped through the window. Fortunately the single mother and her daughter who resided in the house were absent.

After gaining entry, you removed your shirt and walked into the kitchen where you armed yourself with six kitchen knives ranging in size from 18.5 centimetres to 32 centimetres. The knives came from a kitchen block. You also removed a large carving fork from that block. You placed four of the weapons down the back of your jeans and one into the front, while retaining a large knife in each hand. You then proceeded to move through the residence turning off lights and at a stage unknown, you stabbed the walls, hallway cupboard doors, the child's bedroom room and study door with knives leaving numerous gouges and blood spatter on the walls and floor. You used sufficient force on the door to the child's bedroom to penetrate through both sides of the wooden door.

Prior to police entry into the house, in the laundry you stabbed the family pet dog four times to its body. The dog was 13 years old and blind. You do not remember stabbing the dog and you have no idea why you did so. The dog escaped through an animal flap in the sliding door and subsequent surgery costing \$2,500 was able to save the pet's life.

A police officer shone a torch into the laundry window which resulted in you standing up and facing them with a raised kitchen knife in each hand. Police located the broken window and a trail of blood. Three officers entered the residence through the broken window and proceeded to clear rooms before moving down a hallway toward the laundry. One officer opened the hallway door and looked around a corner into the laundry where he saw you with your back to the laundry door that led outside, facing him with both arms raised above your shoulders holding a large kitchen knife in each hand. The laundry door was locked and you were unable to exit the premises from the laundry. Blood on the door handle suggests you unsuccessfully attempted to exit the premises that way.

After seeing you in the laundry, the officer backed down the hallway and called out that you were in the laundry and armed with two knives. Police repeatedly called upon you to throw your knives into the hallway. They heard tapping or scraping sounds from the direction of the laundry, but you did not speak or respond. You then entered the hallway with your hands raised over your shoulders holding a knife in each hand. You are a tall man and the sight of you holding the knife in each hand must have been a very frightening sight indeed. Fearing for his safety, an officer fired a taser, but only one barb made contact before you ducked back into the laundry. The circuit was not completed and the taser had no effect except to cause you to panic even further. There can be no criticism of the officer for firing the taser, but in your mental state the firing had an adverse effect upon your mental functioning.

Immediately after ducking back into the laundry to avoid the taser, you ran into the hallway and rushed straight at the first officer with both knives raised above your shoulders. When you were within two to two and a half metres of the officer, fearing he was going to be stabbed in the face and killed, the officer fired three times striking you once in the right upper arm. The second round grazed your chest and the third round missed completely. This gives some idea of the panic and fear that the officer was experiencing.

Following the three shots, you kept moving up the hallway. The officer who fired the shots was in a state of shock and stood quite defenceless, while you advanced toward him and reached a position very close to him. You did not attempt to attack him. Instead you turned into the study while swinging a knife in a downward motion with your left hand. You intended to leave the premises through the window by which you had gained entry. The second officer kicked a door into your path, but you continued into the room, again swinging the knife. This caused the second officer to fear for his life. That officer dropped the taser and reached for his firearm screaming 'Shoot him! Shoot him!' The first officer fired a fourth round striking you in the rear shoulder blade. This impact caused you to fall to the ground.

I accept that you acted in a state of severe panic. You thought, wrongly, that people were chasing you and in your confused and panicky state you thought the police officers were those people. However, considered objectively, by taking up the knives you created an exceptionally dangerous situation in which serious injury or death could have been caused to the police officers. I accept that you did not make any effort to stab or cut a police officer because, in your panic, your primary motivation was to get out of the premises through the broken window. From the perspective of the police officers, however, you were, potentially, a very dangerous assailant with the capacity to kill or seriously injure them.

There can be no criticism of the way that the police responded. They were not to know that you were acting under a delusion and in panic. They were both extremely frightened and feared for their lives. There are ongoing psychological effects which it is unnecessary to canvas.

Your conduct has had very significant and ongoing effects upon the occupier of the home and her children. Not surprisingly they found the whole episode very distressing and felt that the sanctity of their home had been invaded.

Mr Walker, you present a sentencing court with a very difficult problem. On the one hand, you committed serious offences with significant effects and you are a person who has previously committed offences of violence. Sentences of imprisonment have not deterred you. At present you are a danger to the community, particularly when you have been drinking, and the first priority of the court must be to protect the public. However, in arriving at an appropriate sentence it is necessary to have careful regard to your mental state and to the direct link between your impaired cognitive functioning and the commission of the offences.

Both the law and reasonable members of our community recognise that in some situations impaired mental functioning can reduce the moral culpability of the offender, particularly where the impaired mental functioning is directly linked to the commission of a crime. Your case is a good example of a direct connection between your impaired mental functioning and your criminal behaviour. In these circumstances, less emphasis is given to questions of general deterrence and punishment because the community understands that an offender who commits a crime whilst mental functioning is impaired is not a good vehicle for the purposes of

detering others. However, protection of the public is of paramount importance and the fragility of your mental state, particularly when you have consumed alcohol, means that in the right circumstances you pose a significant danger to the welfare and safety of the community. While I accept that you are sorry for what you did, and you are well motivated to rehabilitate with strong family support, at this time in your life it cannot be said that the prospects of you not consuming alcohol and not posing a danger to the community in the future are good. At best, there is reason for hope, but it will require a lot of work by you and those that will be supporting you. The prospects of you not re-offending will be greatly improved if you are kept away from townships where you have access to alcohol. Through all this, you have not learnt from previous sentences of imprisonment and personal deterrence remains a factor in deciding the appropriate sentence.

So, Mr Walker, I face a difficult task. As the former Chief Justice of the High Court observed when sitting as the Chief Justice of the New South Wales Court of Criminal Appeal, 'the interplay of considerations relevant to sentencing may be a complex, and on occasions even intricate'. This is one of those occasions.

Your offence of unlawful entry was aggravated by your conduct in damaging the home and stabbing the dog. Your offences of resisting arrest were particularly serious in view of your use of the knives. Although no physical harm was caused to the police officers, your criminal conduct has had significant psychological effects upon both those officers and the occupier and her children. In addition, you have a record or prior offending, including offences of violence.

On the other hand are the matters personal to you and, in particular, your impaired mental functioning and your remorse. In addition, I accept that you have been subjected to another form of punishment through the wounds that were inflicted by the glass and bullets, together with ongoing emotional effects that you have experienced following realisation of what you have done and incarceration which you find intimidating because of your impaired mental functioning.

I order restitution to the occupier of the home in the amount of \$4,500. This amount is fixed in accordance with advice from your counsel that this sum has been made available from monies due to you by way of royalties. As I have said, I accept that you are sorry for what you have done to the family of the home, but I note that your insight into your conduct is limited in the sense that you continue to harbour feelings that the police hurt you. This is not to suggest that you have a criminal mindset, but it is a demonstration of your ongoing cognitive impairments and of the difficulties that will be faced in the future in achieving full rehabilitation and protection of the community.

You are convicted of all three offences.

With respect to count 2, had it not been for your plea of guilty I would have imposed a sentence of three years imprisonment. After allowance for your plea, I impose a sentence of two years and three months imprisonment.

I do not see any reason why I should distinguish between the sentences imposed on counts 2 and 3. These are sentences for assaulting the police officers in the execution of their duty. The sentence on count 3 will be the same as count 2. But for your plea of guilty I would have imposed a sentence of three years. After allowance for your plea, I impose a sentence of two years and three months.

The offences in counts 2 and 3 were all part of the one incident and those sentences will be served concurrently and commence on 27 March 2009.

With respect to count 1, the unlawful entry, had it not been for your plea of guilty I would have imposed a sentence of two years imprisonment. After allowance for your plea, I impose a sentence of 18 months imprisonment.

Mr Walker, I point out to you and to others who will become aware of these sentences, that had it not been for your impaired mental functioning, these individual sentences would have been significantly longer. In addition, the total that I will require you to be served would also have been longer, as would the non-parole period.

I have decided that of the sentence of 18 months imposed on count 1, nine months of that sentence should be served cumulatively upon the sentences imposed with respect to counts 2 and 3, making a total sentence to be served of three years imprisonment commencing 27 March 2009. I have decided that it is appropriate to fix a non-parole period rather than to suspend part of the sentence. I fix a non-parole period of one year and six months.

Mr Walker, that means you have a total sentence of three years commencing in March 2009 and that there is a non-parole period of 18 months. That means that you must serve a minimum sentence – a minimum of 18 months. After 18 months you will be eligible to apply for parole. That is you will be eligible to apply for release on probation. Whether you are released on parole will be a matter for the Parole Board at that time.

Is there anything further?

DR ROGERS: No, your Honour.

HIS HONOUR: Thank you. Could you adjourn the Court, please.
