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THE SUPREME COURT OF  
THE NORTHERN TERRITORY

SCC 22318403

THE KING

and

KURTIS CONWAY

(Sentence)

KELLY J

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON FRIDAY 1 NOVEMBER 2024

Transcribed by:  
EPIQ

HER HONOUR: Mr Conway, I am going to sentence you this morning. You can stay sitting down while I do that because I need to talk to you about quite a few things.

Kurtis Conway, you have pleaded guilty to unlawfully entering a building, with an intention to commit an offence. It was aggravated by a number of matters; that you intended to commit the offence of stealing, which is an indictable offence; the building was a dwelling house and the unlawful entry occurred at night. For those reasons, the maximum penalty for this offence is imprisonment for 20 years.

I am going to talk about what happened. You were 27 years old at the time you committed this offence. The victim, who was the resident in the house, was a 72-year-old lady. At about 9:30 pm on 25 January 2023, the victim was at her home at that address in [redacted], and she fell asleep on a couch in the living room.

At the time she fell asleep, her home was locked and secured. Sometime between 9:30 pm and 11:30 pm, you entered the rear yard of her property. You took the flyscreen off the bathroom window and tried to move the sliding window open. You entered the residence and you searched the front bedroom and the master bedroom and then you left.

The victim woke up at 11:30 pm. When she woke up, she found that multiple flyscreens and a sliding door track had been damaged, a baseball bat on the kitchen table from the granny flat outside, and a number of items had been stolen, including a hatchet worth \$30, her RAV 4 vehicle valued at \$10,000 and \$90 in cash.

We are to make it clear that the Crown does not allege that you caused that damage or that you stole those items. The victim reported the matter to the police, but later on, they conducted a crime scene examination and found your fingerprint inside the bathroom window.

Later on, on 4 March, the victim's motor vehicle fortunately was recovered and police arrested you and took you into custody on 11 June 2023.

I do have a victim impact statement from the resident of the house. She said that this is the fourth time she had been targeted since Christmas, and that was on 25 January, so four times in a month. She said, "I'm elderly and I live alone. It really scares me that someone keeps coming to my home while I sleep." It must be a terrifying experience for her.

I am going to talk about you now. You have a lengthy criminal history which includes 14 aggravated assaults, a conviction for an unlawful use of a motor vehicle and for property damage and four convictions for stealing. More relevantly, three for unlawful entry, which were dealt with in the Local Court and for which you received 6 months' imprisonment for each of the first two and 12 months for the third.

You have also got a fairly bad history of breaching court orders. You have a breach of bail, five breaches of domestic violence orders and three of suspended

sentences. Your lawyer gave me some information about you, your personal background and history.

You are now 28 years old. You are an Eastern Arrernte man. You were raised in Amoonguna, 15 kilometres south-east of Alice Springs. You were mostly brought up by your grandparents, although your parents also lived in Amoonguna and were involved in your childhood.

You say you grew up playing football with friends, hunting for kangaroos and bush tucker and learning about culture from your grandparents. You say you did not see regular violence growing up. You recall witnessing regular alcohol consumption as a child, but not inside your home.

You attended school at Amoonguna, Gillen Primary School, Yipirinya School, Howard Springs School, Harts Range School and Centralian Senior College. You report having difficulties throughout your schooling mostly with fighting and arguing with teachers and other students. And presumably, at least partly as a result of that, your attendance was irregular to very poor.

When you were 11 years old, you were diagnosed with perforations and mild conductive hearing loss in both ears, but you were advised to wear hearing aids, but you do not. And you indicated to me the other day that you could hear what I was saying to you.

You have never had a job and you do not report undertaking any other regular activities. You were once in a long-term relationship and you have a 7-year-old son, but that relationship has now ended. Now, you say you are eager to get back with your family when you are released from custody. Your grandmother is in a wheelchair now and of course getting more infirm as she gets older.

You also say you are keen to rejoin the local Australian Rules football team to give some structure to your life and it would also be a very good idea if you could somehow gain employment. You say you have no desire to spend nights in Alice Springs because you recognise that you get into trouble here.

I need to talk to you a little bit about the things that I have to think about when sentencing you. Unlawful entry of a dwelling at night with intent to steal is a serious offence, that is why there is a maximum penalty of 20 years' imprisonment. Also, these offences are unfortunately very common. This victim says she has been broken into four times in a month. It causes a great concern in the community.

So I have to impose a sentence that sends a message that the court and the community disapprove strongly of this kind of offending, and I have to impose a sentence that will discourage you and discourage other people from committing these kinds of offences.

Now, I do take into account that this offence is towards the lower end of the range for offences of this nature. You have not been charged with stealing or

property damage. You have pleaded guilty and you are entitled to a reduction in your sentence for that. I can give you a lesser sentence because you pleaded guilty.

If it had not been for your plea of guilty, I would have considered an appropriate sentence to have been imprisonment for three years. Allowing a reduction of around 20 percent, you will be convicted and sentenced to a term of imprisonment for 2 years and 5 months beginning on 26 June 2024.

I do not think it is appropriate to suspend any part of your sentence. You have been found unsuitable for supervision in the community and you do have an unfortunate history of breaching court orders. So I am going to fix a non-parole period of 15 months.

MS HAYWARD: Yes, so your Honour, that was four months and six days. We made submissions in terms of *Lovegrove*, and if your Honour accepts my submissions that - - -

HER HONOUR: No, I do not accept that he is entitled to any - - -

MS HAYWARD: Thank you, your Honour. Then 4 months and 6 days backdated from today is 26 June 2024.

HER HONOUR: 26 June 2024.

MS HAYWARD: Yes.

HER HONOUR: So your sentence starts from 26 June 2024. Have we got that right or wrong?

MS HAYWARD: I am just going to show my learned friend, your Honour, the calculation that I did in relation to that.

MR GORRY: That is agreed between the parties, your Honour.

HER HONOUR: All right, 26 June 2024. I should add for the sake of completeness that I do not accept the - - -

MR GORRY: Yes.

HER HONOUR: - - - the *Lovegrove* submissions from defence.

MR GORRY: Yes.

HER HONOUR: And I do not accept that Mr Conway's upbringing was dysfunctional to the extent that would enliven the *Bugmy* principles. He appears to have had a reasonably decent upbringing with his grandparents. All right, thank you for that.

MS HAYWARD: May it please the court.

MR GORRY: May it please the court.

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