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THE SUPREME COURT OF  
THE NORTHERN TERRITORY

SCC 22527835

THE KING

and

ER

(Sentence)

BURNS J

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON TUESDAY 12 MAY 2026

Transcribed by:  
EPIQ

HIS HONOUR: ER, you appear before me today for sentence on the following three charges. On file 22532489, a single charge of aggravated robbery which occurred on 26 May 2025 with the circumstances of aggravation being that you were in company with a co-offender JF and that while committing the offence, or immediately before or after the offence you or your co-offender caused harm to TN.

On file 22527835, count 1, a charge that on 20 April 2025 you committed an offence of aggravated robbery with the circumstances of aggravation being that you were in company with a co-offender RP and that immediately before, at or immediately after such offence you or your co-offender caused harm to BG.

And count 2, a charge that on the same date you committed an offence of aggravated robbery with the circumstances of aggravation being that you were in company with RP and that you or your co-offender caused harm to KA. Each of these offences carries a maximum penalty of life imprisonment.

On 20 April 2025 at about 5 pm you and your co-offender RP attended a residential complex at an address in Coconut Grove. Your conduct was captured on CCTV cameras throughout the carpark. BG was riding his bicycle in the carpark where you and RP approached him and asked to ride the bike.

The victim said that it was his grandfather's and he did not let anyone ride it. You threatened the victim saying, "I'll smash you. I'll smash you. Let me ride it." And, "You can ask the taller one. I'm not going to steal it." BG said no but told you both he would give you \$500 from upstairs as an excuse to get away from you.

BG rode away and saw you and RP attempting to steal a Honda motorcycle which had been parked in the carpark. BG rode down to the elevators and went up to the second floor. He told his friend and her brother to get inside then secured his bike at the apartment. He retrieved his scooter and mobile phone. He then rode around to check if you and RP were still there.

Meanwhile you and RP had located a fire extinguisher and started to discharge it across the carpark. You then walked up the carpark stairs to the first floor. BG returned to the carpark via the elevator on his scooter. He rode down the carpark intending to close the gate at which time you and RP were returning to the ground floor.

BG started to record you both on his mobile phone. You jumped off the stairs and started to walk towards BG asking for the \$500. RP followed and you both reached BG at the same time. You and RP punched BG multiple times to the upper body and head in rapid succession. You kicked BG twice.

BG was hit 13 times but did not fight back. He raised his arms and tried to protect himself. He dropped his mobile phone. RP picked it up from the ground and took it along with BG's scooter. As RP was picking the items up BG ran away. You and RP fled the carpark with the stolen items through the pedestrian gate on to Dick

Ward Drive. BG went upstairs and called the police. At 5:54 pm police attended and inspected the scene. BG's phone was valued at \$1000 and his scooter at \$68.

At approximately 7 pm the same day the victim AB was in the same carpark cleaning his vehicle. You entered the carpark from Musgrave Crescent through the open gate in the driveway. You opened the pedestrian gate which allowed RP to enter as well. AB confronted you.

You and RP demanded money and cigarettes. AB indicated that he did not smoke. You grabbed the victim's gold necklace from his neck scratching him in the process. You both then fled the carpark with the necklace. Neither of you had permission to steal from AB or assault him. His necklace was worth \$1500.

On 24 April 2025 at 12:35 am RP was brought to the Palmerston Police Watchhouse by family members in relation to an unrelated matter. On 24 April 2025 investigators, canvassing with images of both you and RP, obtained an identification statement from another person identifying two of you.

At 7:05 am you were arrested at an address in Milner. You were taken to the Palmerston Watchhouse. At the time of this offending RP was in breach of his bail conditions and neither of you had a lawful reason for stealing or assaulting the victims. None of the stolen goods have been recovered.

On 26 May 2025 you and your co-offender JF and the witness JS were together at your residence in Milner. Between 10:15 and 10:30 am you all left the residence to attend JS's residence in Alawa. You, JF and JS were each riding bicycles. At about 10:45 am you were all riding on the footpath on Trower Road between Lakeside Drive and Alawa Crescent.

The victim was riding her blue Segway C2 electric scooter valued at \$500 along the footpath towards you. She was carrying a plastic basket with her shopping inside on the platform of the scooter. You spotted the victim and said "let's steal that scooter" to JF and JS. JF agreed however JS attempted to discourage you.

The victim stopped her scooter on the roadside to allow your group to pass on your bicycles. JF used his bicycle to hit the front of the victim's scooter while she was still on it. JF then got off his bicycle and approached the victim. He pushed the victim in the upper chest and shoulder.

You remained on your bicycle and approached the victim with you and JF either side of her. You were both yelling out, "Get off your scooter. I want your scooter." Both you and JF were pushing the victim trying to pull her scooter off her. JF was standing in front of the victim pulling the scooter by the handlebars and you were on your bicycle by her side hitting her to try and get her off the scooter.

During this altercation JF struck the victim in the face one or two times. While this was occurring JS remained on his bicycle next to the fence nearby. He did not say or do anything. The victim let go of her scooter with JF gaining control of it. JF

got on the scooter and rode off with you and JS following on your bicycles towards Alawa Crescent.

The victim called her landlord to assist her and then called police. As a result of the incident the victim suffered harm. She was scared and in shock following the incident. The scooter was the victim's only means of transport.

You rode the scooter to JS's residence with JS and JF riding bicycles. Upon arriving at JS's residence his mother TM requested you and JF to leave. She did not want either of you at residence with a stolen scooter. JS took the scooter from JF and you taking it back to return it to the victim however the victim had gone. JS gave the scooter back to JF and you and you went back to your residence with it.

At 2:57 pm Buddi electronic monitoring system advised Northern Territory Police that your EMD was flat and had been down for a period of two hours. CCTV from a nearby residence captured you directly after the incident riding the victim's scooter with JS and JF on bicycles in the direction of Alawa Crescent. A bicycle was recovered from the scene of the offending.

On 27 May 2025 police attended your residence and arrested you. Following being cautioned by police, you made admissions to being present during the incident however stated that, "I never had it. JF was on the scooter. I was on my bike."

The victim participated in a photographic identification parade that included your photograph however was unable to select an image. Three tape lifts of the victim's jacket were collected and underwent forensic analysis. Your DNA was not recovered.

The victim provided a victim impact statement dated 26 May 2025. She refers to being physically pushed on her scooter to face and head as you and the co-offender attempted to take her scooter. The victim said that she was in shock and experienced some pain in her shoulder and face.

This was the first time that she had been subjected to an attack and she experienced a state of shock. This incident has affected her emotionally and she felt distressed that such an attack occurred in broad daylight on a main road in Darwin. As a result of this offence she lost her main method of transport causing her significant inconvenience and anger.

At the time of this offending you were 14 years old. Your co-offender JF was 13 years old. Your other co-offender RP was 18 years old. You did not give evidence at your sentence hearing but I was provided with information about your background by your lawyer and also in various reports that were provided to me.

You are now 15 years old and you were born in Darwin. You have been raised largely by your mother and, at times, under the care of the Department of Children and Families. You are of Aboriginal descent and you have family connections to Tennant Creek through your father's side.

You are the middle child of three. You have an older brother and a younger half-sister. Your mother and father separated when you were young. Your stepfather played a significant role in your upbringing however he has since separated from your mother. He is presently incarcerated.

You keep in regular contact with him via telephone. Your father is also presently incarcerated. You have not had contact with him in many years and you do not have any form of relationship with him. Your strongest parental attachment is to your mother with whom you were living with until 24 April 2026 when she was arrested.

You are currently being cared for by NL, a family friend who has agreed to care for you and your younger sister in your normal residence while your mother remains incarcerated. The Department of Children and Families are engaged and aware of the situation.

Your lawyer informed me that you have been removed from the care of your mother on six occasions. The first occasion was when you were five years and seven months old. As at 1 September 2025 there had been 83 child protection notifications made to the Department of Children and Families about concerns for your welfare.

The basis for which you were taken into care was exposure to domestic violence perpetrated by your mother's previous partner, exposure to excessive alcohol and substance misuse and your mother engaging you and your siblings in crime thereby neglecting and exploiting you.

While in care you had had many different placements and you have had periods in foster care placement and residential care placement. You have experienced significant disruption to your education which has materially impacted your development and function.

In April 2018 when you were seven years old you were diagnosed with Attention Deficit Hyperactivity Disorder (ADHD). A psychological assessment report dated May 2025 reports that you present with significant neurodevelopmental and functional impairments. You have very low intellectual functioning with significant difficulty across cognitive domains; clinically elevated impairments and executive functioning including difficulties with impulse control, emotional regulation, working memory, planning and problem solving.

You have significant attentional deficits consistent with ADHD; impaired adaptive functioning requiring substantial support for daily living; communication and social interaction; clinical significant emotional and behavioural dysregulation and communication and language difficulties impacting your ability to understand instructions, process information and express yourself effectively.

You have suffered complex trauma and adverse childhood experiences which contribute to heightened emotional dysregulation, impulsivity and behavioural

responses, particularly when under stress. You are vulnerable in social contexts including being susceptible to peer influence and engaging in behaviour without fully understanding consequences. You benefit from structured support, therapeutic intervention and stable relationships.

I received a letter from Mr Knight, senior clinician at the Australian Childhood Foundation and dated 27 April 2026. Mr Knight notes that you have been engaged with that foundation since January 2025 and he has been working with you as your primary clinician since January 2026. He speaks of your recent re-engagement with school and the challenges which you have faced in returning to education.

Mr Knight states that throughout his conversations with you, you have identified your family as your core value. When separated from your mother and sister your mental health has deteriorated. Ongoing closeness and connection with your mother and sister, Mr Knight said, could positively contribute to your ongoing mental health recovery.

Mr Knight stated that your self-identified goal is not to get locked up. He notes that you have experienced abuse in the Holtze Detention Youth Centre and you have identified that environment as not being safe for you. In that regard I note that in July 2025 while you were in custody you were the victim of a sexual assault by another young person within the detention centre.

You were required to give evidence in proceedings against that young person but those proceedings resolved on the day of the hearing with the offender pleading guilty to a single count of attempting to engage in sexual intercourse with you. At the time you were a particularly vulnerable young person having regard to your age, small stature and cognitive impairments.

You are a first-time offender for the purposes of sentencing for the first offence of aggravated robbery. At the time of the second series of offending your criminal history was limited to a single minor shoplifting offence. You have not engaged in further offending since 28 November 2025.

While your mother is currently in custody you are under the care of NL and you are living with her and your sister. You have ongoing support from the Australian Childhood Foundation and also from McKillop Family Services. You also have potential opportunity for employment.

The pre-sentence report refers to a history of non-compliance with bail requirements, particularly regarding electronic monitoring. Your lawyer informed me at the sentencing hearing that you found wearing an electronic monitoring device to be frustrating but that you are willing to comply with Community Youth Justice supervision. You were assessed as unsuitable for a supervised order by reason of your limited engagement with Community Youth Justice whilst on bail and your failure to properly comply with electronic monitoring conditions.

I nevertheless consider it vital that you be subject to a period of supervision. The offences for which you are to be sentenced are particularly serious. In an adult offender a lengthy period of imprisonment would have been appropriate.

While encouraging your rehabilitation is of high importance in this sentencing exercise, protection of the public is also important. You will need to accept that you have to earn the trust of those supervising you before you can expect the conditions of your supervision order to be lessened.

I will proceed to sentence under the *Youth Justice Act* despite the serious nature of these charges. The reason for this is that you were only 14 years old at the time of the offending and your extremely limited prior criminal history which is only relevant to one series of offending.

Your pleas of guilty were early pleas saving the community the cost of defended trials. I also accept that your pleas of guilty evidence some remorse but there is also material in the pre-sentence report which casts doubt upon the level of your remorse. It may simply be that that material is evidence of your immaturity and cognitive deficits.

I will reduce the otherwise appropriate sentences by approximately 20 per cent because of your pleas of guilty. I will proceed without recording convictions despite the serious nature of the charges. you are at a point in your life where you're attempting to identify employment pathways and opportunities.

It would not be in your best interests or the community's interest to have your employment prospects limited by recording convictions. You have spent six days in pre-sentence custody referable to the present charges. I will proceed by way of partially suspended sentences of detention.

On each of the charges, without recording convictions, you are sentenced to 16 months' detention commencing on 6 May 2026 and expiring on 5 September 2027. These sentences are suspended as of today 12 May 2026. There will be a period of 16 months from today and expiring on 11 September 2027 during which you must not commit any further offences.

You will be subject to the following orders during that period:

- You will accept the supervision of a Community Youth Justice Officer and obey all reasonable directions.
- You will undertake such educational or vocational programs as directed by a Community Youth Justice Officer.
- You will accept and participate in such counselling or treatment as directed by a Community Youth Justice Officer.

- And you will reside as directed by a Community Youth Justice Officer.
- You will, if directed to do so by a Community Youth Justice Officer, wear an electronic monitoring device between the hours of 7 pm and 7 am.
- You will, if directed to do so by a Community Youth Justice Officer, comply with a curfew between the hours of 7 pm and 7 am except if you are in the company of a responsible adult approved by a Community Youth Justice Officer or in the case of a medical or dental emergency.

Now, ER, your lawyer will undoubtedly explain that to you further. What it means is that I have not recorded convictions against you on these three charges. I have imposed periods of 16 months' detention on each of them to be served at the same time so there is a total of 16 months. That is suspended as of today.

THE ACCUSED: Yeah.

HIS HONOUR: You have to comply with the conditions that I have read out including supervision and obeying the directions of a Community Youth Justice Officer. I accept that it is difficult being required to wear an electronic monitoring device if you are engaged in either employment or education.

For that reason I have only permitted an electronic monitoring device to be required between the hours of 7 pm and 7 am. So that would be after school or work and finishing up again before school or work. Do you understand that?

Now, there is also a curfew. So you are going to have to stay home between 7 pm and 7 am unless you are in the company of an adult who has been approved by Community Youth Justice or if there is some dental or medical emergency. Do you understand that?

THE ACCUSED: Yes. I can't go out past nighttime.

HIS HONOUR: I am sorry. I cannot hear you. Can you just - - -

THE ACCUSED: So I can't go out past nighttime without an adult.

HIS HONOUR: Without an adult or without permission by Community Youth Justice. All right?

THE ACCUSED: Yep.

HIS HONOUR: Now, if you breach those terms, if you commit some further offence or you do not comply with the directions that are given to you, you can be brought back before the court and a further period of detention can be put in place. Now, that is not something that you want to contemplate.

You appear to have been on the right path since late last year, since November or December last year. Clearly you have been making an effort to do the right thing. Now, 16 months does not take that long. It will be over and then you can put all of this behind you and move on with your life.

THE ACCUSED: Yeah.

HIS HONOUR: Is there anything arising out of that?

MS PREECE: Your Honour, just in relation to the EMD, I have what your Honour's said to ER. I just foresee some practical difficulties with the 7 pm to 7 am - - -

HIS HONOUR: Because there may have to be some - - -

MS PREECE: - - - fitting, refitting, police.

HIS HONOUR: - - - fitting and refitting.

MS PREECE: And also in circumstances where I appreciate your Honour's intention behind crafting the condition in that way is to allow ER to either attend school or work without an EMD. But in the Crown's submission there are likely times between in day hours ER will not be at school or work.

I just wonder if perhaps your Honour giving the discretion to the CYJO in relation to EMD in its entirety may be more practical but it is just a matter I raise.

HIS HONOUR: Yes. There may be some practical difficulty in terms of fitting and refitting the device.

MS PREECE: Yes.

HIS HONOUR: What do you want to say about that, if anything?

MS MCCARON: Your Honour, I am just wondering that ER has had some difficulties with the monitor in the past and that it may be setting him up to fail if he is required to wear it on a full-time basis. He does have the curfew condition in place which would be adequate, in my submission, to restrict his ability to be out at night and the potential for further offending which he has shown that he can comply with in the past.

HIS HONOUR: All right.

Then I will delete the condition in relation to the electronic monitoring.

MS PREECE: May it please the court.

HIS HONOUR: Now, ER, you have heard what I said. I have deleted the condition about you being required to wear an electronic monitoring device. Now, do not go getting too cocky about this because that means I have put a great deal of trust in you not to do the wrong thing. You are still subject to the curfew at night and that can be checked upon.

So you might not be monitored so we might not be able to check that you are at home by using an electronic monitoring device. But police or Community Youth Justice can attend at your premises during the hours of curfew and check that you are there. So do you understand all of that?

THE ACCUSED: Yep.

HIS HONOUR: I will adjourn.

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