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THE SUPREME COURT OF

THE NORTHERN TERRITORY

SCC 22429119

THE KING

and

XR

(Sentence)

BLOW AJ

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON FRIDAY 2 OCTOBER 2026

Transcribed by:
EPIQ

HIS HONOUR: XR has been found guilty by a jury on five charges. They comprise two charges of aggravated robbery, one charge of aggravated burglary and two charges of theft. These offences were committed in October 2024 when he was 16 years old. He is now 18.

The first two charges, both of which are charges of aggravated robbery, relate to offences committed at a service station in Katherine on the night of Thursday, 10 October 2024.

At about 11:10 pm that night, XR and a number of other youths entered the service station in order to steal. They got in through an upstairs window. Some staff members were living upstairs. Some of the intruders were armed.

CCTV footage played during the trial showed XR carrying a machete, but there remains a possibility that it might have been carried by someone else at other times. One of the staff members, XZ, was confronted by an intruder carrying what XZ called a “large knife”. The intruder made a threatening gesture with the weapon and demanded money. XZ told him where the money was and then fled.

Another staff member, SP, was eating in a kitchen when two of the intruders confronted him. One of them was carrying what SP called a “large knife”. He said it was as long as his arm from his shoulder to his wrist. The intruder with the knife made a threatening gesture with it. One of the intruders screamed at SP demanding money and smokes. He had nothing, said so, and fled.

I am not able to be satisfied beyond reasonable doubt that XR personally made either of the threatening gestures to XZ or SP. The offenders stole an electric scooter worth $1000 and two cash tills containing unknown quantities of cash. None of the stolen property was recovered.

The two aggravated robbery charges relate to XZ, (count 1) and to SP, (count 2). Although I am not satisfied beyond reasonable doubt that it was XR who threatened either of those two men, as a matter of law, if either or both of them were threatened by one of his companions, he is guilty of the crime of aggravated robbery by virtue of s 43BGA of the *Criminal Code* and the jury so found.

The jury were also satisfied beyond reasonable doubt as to two circumstances of aggravation relating to counts 1 and 2, firstly, that XR was in the company of others, and secondly that he, or a co-offender, had possession of an offensive weapon.

Counts 3, 4 and 5 relate to offences committed at the same service station on the following night, the night of Friday, 11 October 2024.

XR returned that night with a group of youths. One member of the group forced open an upstairs kitchen window, entered the residential section of the building through that window, went downstairs, broke open a door and let the others in.

On the basis of CCTV footage shown during the trial, I am satisfied beyond reasonable doubt that the individual who did those things was XR. XZ and another employee, MN, hid and phoned the police. The intruders stole a cash till containing an unknown quantity of cash. They also stole a backpack belonging to MN. It contained vehicle and house keys, an iPhone, a wallet, licences, bank cards, $50 in cash and some headphones. Again, none of the stolen property was recovered.

On count 3, the jury found XR guilty of aggravated burglary. They were satisfied, beyond reasonable doubt, that he entered the building to commit the crime of theft and was accompanied by others.

They also found him guilty on counts 4 and 5, two charges of theft relating to MN's possessions and the till respectively. The maximum penalty for aggravated robbery is imprisonment for life, the maximum for aggravated burglary is 20 years, and the maximum for theft is 10 years.

I received only one victim impact statement. It came from SP. He thought he was going to die. His attitude towards his own safety has been changed forever, he said. The offences no doubt were terrifying for the other staff members, XZ on both nights and MN on the second night.

As I have said, XR is now 18 years old. He is an Aboriginal man. He has a history of Fetal Alcohol Spectrum Disorder, Attention Deficit Hyperactivity Disorder and Post-traumatic Stress Disorder as well as a mild intellectual disability.

He grew up in Lajamanu, except for periods when he was in foster care or in detention. His father came from Lajamanu. He is the eldest of seven children. One of his sisters was killed in a motor vehicle accident. It was when he was very young. He witnessed that accident. A driver ran into his mother and the pram with his sister in it. His mother was injured and his sister killed. His father died in another motor vehicle accident when XR was 6 years old.

As a child, he was exposed to domestic violence, parental alcoholism and substance misuse, physical and emotional abuse, significant neglect and parental incarceration, as well as the deaths of close family members. He has received little education. The extremely serious disadvantages suffered during his childhood and adolescence lower his moral culpability in relation to the crimes for which I have to sentence him.

He has a history of offending commencing when he was 13 years old. His prior offences include assault, one case of aggravated robbery, other crimes of dishonesty, offences of damage to property and driving offences, amongst others. He was sentenced to two periods of detention in 2022 and 2023. He was released in August 2023, returned to Lajamanu and stayed out of trouble for about a year.

By the time of the offences I am dealing with, he was on bail in relation to some new charges and that counts against him. He was arrested in relation to the Katherine Service Station offences on Saturday, 12 October 2024. He was allowed

to attend his grandfather's funeral several weeks later. He reoffended on 11 December 2024 and was arrested again.

On 29 August 2025, her Honour, Brownhill J sentenced him for offences committed on 1 August 2023 and 11 December 2024. The sentences imposed in respect of the 2024 offending are relevant, but those were subsequent offences, so they do not count against him in the way that prior offences do. The offending on 1 August 2023 was prior offending, but he had not been dealt with by the court. He had not been sentenced in relation to that offending at the time of the service station escapades.

The August 2023 offences involved a charge of aggravated burglary of a dwelling and a charge of aggravated robbery. In respect of those two charges, her Honour, Brownhill J imposed terms of imprisonment backdated to commence on 1 November 2024. In respect of the subsequent offending on 11 December 2024, her Honour imposed three partly and wholly concurrent sentences, the first of which commenced on 11 December 2024. She fixed a non-parole period of 12 months commencing on 1 November 2024.

However, XR remained ineligible for parole until 21 March 2026 because of another sentence. He has not been able to apply for parole since that date, more than six months ago, because this matter was outstanding. He spent time in custody on the service station charges from 12 October 2024 to 31 October 2024 inclusive, a period of 20 days. That has not been taken into account in relation to any other sentencing. I will therefore take it into account today.

Whilst in custody, he has been engaging with NAAJA Throughcare in preparing an application for parole. He was transferred to the adult prison when he turned 18 in March of this year. He had been engaging in weekly sessions with psychologists prior to that transfer but was unable to continue them after March. However, in the adult prison, he has obtained employment and he has participated in the Safe Sober Strong program.

When he is released, he plans to return to Lajamanu. He has a wife there. She lives with her grandmother. He proposes to live with his wife at her grandmother's home and he will be welcome there. There is good reason to think that his wife and her grandmother will be positive influences on him. There is an employment opportunity available for him at Lajamanu. He has a strong connection to the Lajamanu community and a strong desire to stay connected to his culture.

In the period in 2023 and 2024 when he lived there and stayed out of trouble, he spent time hunting goannas, cooking them for his family, telling stories with his family and assisting with the repair of houses. His family have said that if he wants to live with them, he will have to be free of offending and antisocial behaviour. That gives him a strong incentive to stay out of trouble.

He has funding through the National Disability Insurance Scheme. That will be increased after his release. He will also receive assistance from the NAAJA

Throughcare team. He has strong interests in football and basketball. He would like to obtain a mechanical apprenticeship, or perhaps work as a ringer on a cattle station.

XR engaged in serious offending on the two nights in question, nearly 2 years ago. There was some degree of planning, two men were threatened with a dangerous weapon, and XR went back for more on the second night. However, the offending was unsophisticated. The attempts at disguise were childish. The value of the property stolen was not enormous on the first night and low on the second night.

Because XR was only 16 at the time and because of his disadvantaged background and other personal circumstances, I accept that I should sentence him under the *Youth Justice Act* and that I should take into account the principles listed in s 4 of that Act. I do not need to repeat them. Because of the seriousness of the charges and because of his previous offending, the only appropriate sentences are sentences of imprisonment.

His counsel urged me not to impose convictions. The Crown did not oppose that submission. He already has some convictions for serious crimes. It might not make much difference if I do not impose five more convictions, but since I believe there should be an emphasis on his rehabilitation, I will not impose convictions today. Having regard to the totality principle and the need for an emphasis on rehabilitation, I will impose sentences that are somewhat lenient.

XR is presently serving two concurrent sentences; the longer one will expire on 10 June 2027. Because the offences committed in Katherine were serious, I will impose head sentences that will expire some months after that date, but he has been in custody for a long time, and I will therefore fix a non-parole period that will enable him to apply for parole as soon as next week.

The two sentences that XR is currently serving commenced on 11 June 2025. But for the 20 days in custody in October 2024 that I have decided to take into account, I would have backdated the first of today's sentences to a date 3 months later than the starting date of his current sentences, namely 11 September 2025.

To take account of those 20 days, I will instead backdate the first of today's sentences to 22 August 2025. I will not make the sentences on counts 1 and 2 wholly concurrent because they should reflect the fact that two men were separately threatened.

Stand up now, please, XR.

XR, without any convictions, I impose the following sentences:

On count 1, I sentence you to 1 year and 6 months' imprisonment with effect from 22 August 2025.

On count 2, I sentence you to 1 year and 6 months' imprisonment of which 3 months will be cumulative with count 1.

On counts 3, 4 and 5 as an aggregate sentence, I sentence you to 6 months' imprisonment of which 3 months will be cumulative with count 2.

The result is a total effective sentence of 2 years from and including 22 August 2025. I fix a non-parole period of 1 year and 44 days from and including 22 August 2025. That means you will be eligible to apply for parole on Monday.

Is there anything further?

MR BODEL: Not from the Crown, your Honour.

MR HENDERSON: Nothing further, your Honour. May it please the court.

HIS HONOUR: All right. Good. We will adjourn.
