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THE CHILDREN'S COURT OF

WESTERN AUSTRALIA

PE 934 of 2015
PE 1490 of 2015
PE 1492 of 2015
PE 1670 of 2015
PE 1671 of 2015

THE STATE OF WESTERN AUSTRALIA

and

GG

JUDGE D. REYNOLDS

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON TUESDAY, 28 JULY 2015, AT 10.21 AM

MR W. YOO represented the State of Western Australia.

MS M. MELVILLE-MAIN appeared for Youth Justice Services.

MS M. COLLARD appeared for the accused.

ASSOCIATE: Calling the matter of GG.

HIS HONOUR: GG, is it?

GG: Yes.

HIS HONOUR: Just take a seat there, GG. Ms Collard.

COLLARD, MS: Your Honour, I appear for GG.

HIS HONOUR: Right. Thank you. Ms Melville-Main.

MELVILLE-MAIN, MS: I appear for Youth Justice, sir.

HIS HONOUR: Thank you. Mr Yoo.

YOO, MR: If your Honour please, I represent the prosecution in this matter.

HIS HONOUR: Right. Thank you. Ms Collard.

COLLARD, MS: Your Honour, this is my application. It's for a section 40 review of the sentence imposed on 9 June this year by his Honour Magistrate Schwass. I have provided the court with a copy of the transcript.

HIS HONOUR: I've read that.

COLLARD, MS: I have spoken to the State. I understand the State concedes the review of the sentence. Would your Honour wish to hear from me in relation to - - -

HIS HONOUR: Perhaps I will just hear from Mr Yoo, see what the State's position is. I've read what Ms Capelli had to say.

YOO, MR: Yes. That is correct, your Honour. The prosecution would concede the application to review, and, obviously, there is your Honour's discretion. Anything that's agreed to by the prosecution, obviously, doesn't bind the court, but in this particular instance, having regard to GG's record and the scale or where this particular set of offences sit in the scale, the stage has not been reached where detention to be served in the community should be imposed.

It's for that reason, your Honour, that the prosecution is of the view that the sentence should be discharged, but, of course, my friend will inform

your Honour of the reasons or why the court should be persuaded that way.

HIS HONOUR: Right. Thank you for that.

COLLARD, MS: Yes, your Honour.

HIS HONOUR: I should just make it clear right at the outset, and Mr Yoo has mentioned the point, that is, that it's a matter for the court as to what the appropriate sentence is.

COLLARD, MS: Yes. That's correct.

HIS HONOUR: Parties may have a position, but that's in no way binding on the court, and, ultimately, it's the decision of the court. So, that said, what did you want to say, Ms Collard?

COLLARD, MS: Your Honour, I'm predominantly relying on the submissions made in the transcript. It was clear, leading up to GG's remand in custody, that he was hanging around with some older (indistinct) peers and, obviously, engaging in some risky behaviours and - - -

HIS HONOUR: Can I just interrupt for a minute.

COLLARD, MS: Yes.

HIS HONOUR: It might be useful, if this transcript is being used, that it contained the material facts in relation to these matters, so when someone looks at the outcome, they can then relate it to what the nature and factual circumstances of the offences were.

COLLARD, MS: Yes. They were read in court, your Honour.

HIS HONOUR: So perhaps, Mr Yoo, if you wouldn't mind just reading the facts out.

YOO, MR: Certainly, your Honour. Charge 934 of 2015: that some time between 6.20 pm on 14 March and 2.30 am the next day, the complainant's house in North Beach was burgled. During the burglary, the persons responsible forced their entry into the lounge room and went through the drawers and cupboards and took several items, including a set of keys. That included car keys, and those persons responsible used the car keys to steal the complainant's Ford car.

At 10.07 pm on 16 March, GG was sitting in the front passenger seat of that particular Ford, and that was being driven in Nollamara. Police tried to stop the car, and the driver of that car - that's not GG - accelerated immediately and failed to stop. That particular car was then involved in an eight-minute pursuit through the suburbs of Nollamara, Mirrabooka and Balga, near the intersection of Reid Highway and Wanneroo. The driver and GG abandoned the vehicle, running through a bush, jumping fences to escape from police. They were found sitting outside a house in Balga.

When he participated in an interview with the police, he denied stealing the car, however knew that it was stolen. And, as your Honour knows, the co-offender was Brandon Oakley, and he received eight months imprisonment for that matter and some other matters. That record was handed up to the court.

The second set of offences are the aggravated burglary on dwelling, 1490/2015, and that occurs at 1 pm on 19 April 2015. And GG and two associates were at the complainant's address in Hamersley. GG jumped over the side fence into the back of the property. He placed a branch-cutter through the cat door to the lever and unlocked the back door of the property. Once inside, he and the people who he was with went through the house. He took an iPad from the kitchen bench and left the premises through the same door. Forensic officers attended and collected a fingerprint that was identified to GG. He made full admissions to that offence in a video record of interview.

1492 of '15 is an aggravated burglary and commit an offence in a dwelling on the complainant KO. At 1.15 pm - so that's 15 minutes after 1490 of '15 - GG and the two others who he was with were at 76 Vickers Street, Hamersley. They jumped the back fence from a pathway into the backyard. GG crawled through a pet door, which is at the back of the house, went into another room, and he lifted the glass out of the sliding door and entered the main part of the house with his associates.

Once inside, GG and the other males went through the house and took a small box, which had sewing items in it valued at about \$30. They then left through the same back door. Forensics identified a fingerprint that was identified to GG. He also made full admissions in relation to this matter. Our office contacted the police yesterday, and as to date, no one else yet has been charged in relation to that offence.

1670 of '15 is a burglary with intent on a dwelling. At 10.45 pm on 26 May 2014, GG and his friends - and those friends were not charged - were walking out the front of 581 Beach Road in Warwick. GG climbed a fence and entered the yard. He walked to the side of the house and went to the laundry door and entered through the doggie door. He walked through the laundry to the kitchen and looked for items to steal, and he was disturbed by the family dog, and he left through the doggie door without taking any items. The complainants were in their master bedroom asleep. They woke up from the dog barking and watched GG leave. There were CCTV cameras that captured the entire incident, and GG made admissions to the offence.

Finally, in relation to charge 1671 of '15, it was at 8.59 pm on 26 May 2014. GG and several friends were at the front of the Beldon Tavern. They entered the store, walked to the back and took two cartons of beer. GG walked to the front of the store and didn't pay for that, and staff members saw him, followed him and ran. After a few minutes, he fell and dropped the cartons of beer, and one of them smashed. He stood up, picked up the unbroken carton and ran. And he participated in a video record of interview and made full admissions. Your Honour, those should be the relevant facts.

HIS HONOUR: Thank you for that. Ms Collard.

COLLARD, MS: Your Honour, as you will see, those facts were accepted in full. There was no dispute with those facts. He was predominantly in company with other negative peers. There was one incident where he said he was on his own, and he made full admissions to that because the incident was captured on CCTV footage. So, yes, and also the burglary - not the burglary. The stealing of the alcohol - he agrees he was there. I understand that was captured on CCTV footage.

His parents, who are very supportive, have attended court with him on each occasion. His dad is present at court today. Prior to GG being remanded in custody, his parents raised some concerns that he was hanging around with these older, negative peers, obviously engaging in some risky behaviours. He had found himself a girlfriend, so he was staying at his girlfriend's house. And prior to the sentence, he ended up spending a total of 11 days in custody. Some of those days were because he had breached his curfew because he had been at his girlfriend's and not at home.

On other occasion, I think he wasn't at home, and his parents thought that he was at his girlfriend's, but it turns out I don't think he was at his girlfriend's. So he spent 11 days in custody. His parents were very clear, when they came to court, that they thought that the time in custody or the remand in custody would be a wake-up call for GG. They said that, you know, he was really pushing the boundaries. He was really, you know, testing everybody's patience. He also, you know, came to the point where he was caught by schedule 2 and had to be remanded in custody to sort these matters out.

But he pleaded guilty, essentially, very early on to all matters, and you will see from the transcript there were some substance misuse issues. He raised those with me. At that time, he didn't wish for me to raise that with his parents, but he was clear that his substance misuse was far more serious than what his parents were aware of, and so there was a - they were seeking to have GG receive some counselling. And certainly there's a correlation between GG dropping out of school and dropping out positive, structured activities in his life and to his re-offending.

But his father - and when I've spoken to Youth Justice - since he has been placed on the order, I think there has been a very positive turnaround for GG, and I understand that he has been doing well on the order. Youth Justice do have an update in relation to how he has been going. And certainly my submission back on - my submission was that he was - I was asking for an order in the community. I didn't believe that he had reached the option of last resort, where detention was the only option, notwithstanding some of these burglaries are serious.

He did have a very limited record at the time of sentence, and it's the first time that he has been placed on a court order. So it sounds like GG is taking the order very serious, and he has been very positive in the short time that he has been on the order. So I would be asking for your Honour to consider the intensive youth supervision order.

HIS HONOUR: Right.

COLLARD, MS: He has been residing with his parents, and he has now re-engaged back with Balga Detached, and I understand he has started counselling.

HIS HONOUR: Right. Thank you for that. What's the update, Ms Melville-Main?

MELVILLE-MAIN, MS: Certainly, sir. It is acknowledged at the beginning of the order, GG and his family were moving between Perth and Geraldton, so there was a little bit of adjustment to the commencement of the order, and it is acknowledged this is GG's very first order. However, since things have settled down, he's definitely reporting twice weekly, as directed. He has completed 12 out of the 40 hours of community work. He did attend his initial substance abuse counselling session yesterday. And the issues of concern that his Youth Justice officer would like to address with Mr G is, obviously, the substance misuse concerns and also education, sir. His father has been quite instrumental in making sure that GG gets back on track.

HIS HONOUR: Right. Is it his dad that's in the back of the court?

COLLARD, MS: Yes, your Honour. Mr - - -

HIS HONOUR: Right.

COLLARD, MS: Mr G.

HIS HONOUR: Perhaps if he can just - - -

COLLARD, MS: Mr G.

HIS HONOUR: Is it GG's father?

COLLARD, MS: Mr G.

HIS HONOUR: All right. If he wouldn't mind coming forward and taking a seat over in the witness box. Just take a seat there, Mr G. Can you tell me your full name?

G, MR: Yes. My name is Mr G.

HIS HONOUR: Right. Thank you. And GG is your son?

G, MR: yes.

HIS HONOUR: And can you tell me where you live at the moment? As I understand it, it's 71 Burnham Way, Girrawheen. Am I right in thinking that?

G, MR: Yes. That's correct, yes.

HIS HONOUR: Yes. Who else lives there with you?

G, MR: His mum is there at the moment, and two of his sisters are there at the moment.

HIS HONOUR: How old are the sisters?

G, MR: 22 and 20.

HIS HONOUR: Do either or both of them have children?

G, MR: Yes. They've got one each.

HIS HONOUR: One each. And do the children live at your place?

G, MR: Yes.

HIS HONOUR: Yes.

G, MR: One - - -

HIS HONOUR: Who else lives at your place?

G, MR: One lives there, and one sort of came down from Geraldton, and there's a younger sister who goes to school. She's 10.

HIS HONOUR: What school does she go to?

G, MR: She goes to Montrose Primary School, or Roseworth it's called now.

HIS HONOUR: From having read the report, I understood GG had seven siblings, so are there some other children?

G, MR: Yes. There's an older brother who lives in Adelaide, and there's another older brother. He's a bit of a floater. He floats around. So there's three boys and there's three girls.

HIS HONOUR: Right. Is there a seventh one?

G, MR: No.

HIS HONOUR: There's not. You and GG's mother - that's R?

G, MR: Yes.

HIS HONOUR: Right. How long have you been living together?

G, MR: Probably on and off for the last seven, eight years.

HIS HONOUR: Over the last 12 months or so, have you been living continuously together or have there been problems in your relationship with her?

G, MR: I've been - I worked away - I used to work away a lot. I've actually been unemployed for the last three months since - from the mining industry, so - - -

HIS HONOUR: So prior to three months ago, what sort of work did you do?

G, MR: I was working away - diesel mechanic.

HIS HONOUR: So fly-in/fly-out worker.

G, MR: Fly-in/fly-out, yes.

HIS HONOUR: All right. I'm just wondering is there any issue as between you and R that might have been impacting on GG - some problems you were having and they were pretty evident within the household that were impacting on him, causing him maybe to not come home some nights or impact on - impacting on him in some way. Can you give me some idea of that.

G, MR: Yes. I think, because R has got the other kids and GG - because I wasn't there, he was sort of finding it a bit easier to put it over his mum, because she was busy with the younger one, and the elder girl with the babies, because the babies are only about a year old. So in that time he's sort of going away doing his own thing, and I wasn't there, because I was working away for a couple of weeks and coming back every third week. So he sort of was good on the week that I got home, because he knew I was home, but then the other couple of weeks he would sort of go a bit off-track.

HIS HONOUR: Yes. Had you had words with him about - - -

G, MR: We've had plenty of - - -

HIS HONOUR: - - - getting him to lift his game?

G, MR: Pardon?

HIS HONOUR: Had you had words with him, try to get him to lift his game and stop getting - - -

G, MR: I've had plenty of words with him. Yes. I've got - yes.

HIS HONOUR: Yes, stop getting into trouble.

G, MR: Yes, trying to get him out of trouble. I've even told him, you know - I said, "I was the same age as you. We used to go catch a bus from one side of the city to go to the other side of the city, because we didn't want to go to school just around the corner, because we knew that - we actually shifted in our teenage years to Scarborough, so from Mirrabooka we were catching the bus over to Scarborough, three buses to get there at 8 o'clock in the morning. And you're getting someone to pick you up in the morning from your house just to go down to Balga just, you know, three or four blocks away, and you don't know how easy you got it."

HIS HONOUR: Yes.

G, MR: I've told him, you know, everything I've got, I've actually had to work for.

HIS HONOUR: Yes.

G, MR: Same way as my dad taught me. We were shearers, so - - -

HIS HONOUR: Yes. What was his comeback to you after you told him that?

G, MR: He sort of put his head down and sort of looked (indistinct) I said, "How would you like all your friends coming stealing my stuff?"

HIS HONOUR: Yes.

G, MR: "You wouldn't like that." And he sort of got upset: "No. I wouldn't like that," you know.

HIS HONOUR: Yes. Then after you had that chat, he got into some trouble.

G, MR: Depends - yes. Sometimes when he would have a (indistinct) came around, I suppose (indistinct) family or his friends. He - but I try to keep him as - I would sort of try to monitor who's he hanging with and if he knew - I sort of knew who they were or knew the family

background, I would tell him, you know, "I've known those people" - or the friends. "I know" - and I said, you know (indistinct) hanging around with them, because I just - I knew their - what their kids were up to.

HIS HONOUR: Did you know that he was hanging around with some older males?

G, MR: I knew of the boys but I - yes. I didn't realise how old (indistinct)

HIS HONOUR: What about this person Oakley? Did you know him?

G, MR: Yes. I've - yes. I've had - I don't actually know him, but I've seen him once.

HIS HONOUR: When did you see him?

G, MR: Probably about a few months ago, but the other (indistinct) the week.

HIS HONOUR: Yes.

G, MR: I heard he was driving a car around in our suburb, and he pulled up at our street.

HIS HONOUR: Yes.

G, MR: So I've actually chased him away from our street.

HIS HONOUR: Did you tell GG to stop hanging around with him?

G, MR: I told him that. Yes.

HIS HONOUR: Yes. Was that before or after he was found as a passenger in the car that was pursued?

G, MR: I think - around about the same-ish time, so I didn't know who he was - actually hanging with, but I sort of - then I found out who it was. I (indistinct) "You know, don't go hanging with them, because I" - - -

HIS HONOUR: Just getting back - I don't want to get too personal, but just getting back to yourself and your wife, I'm just wanting to find out whether or not there's a stable arrangement, not just so far as the accommodation building-wise, but in terms of your relationship with your

wife, his mum. Are you in a stable relationship at the moment?

G, MR: Yes. We're pretty good. Yes.

HIS HONOUR: Yes.

G, MR: We're friends. Yes.

HIS HONOUR: So when it comes to his living arrangements, he's in a stable situation at the moment, both so far as the house and the people in the house are concerned.

G, MR: Yes.

HIS HONOUR: There's stability across both the building and the people in it.

G, MR: Yes. That's - yes. Yes. We're pretty stable there, and I keep telling him all - like, "Your home is here." I said, "We're always here. You've got - all your friends who you hang around with, they've only got one parent living with them or they're only living with their mum or sometimes they're just doing that." I said, "You've got two people who are the rock foundation (indistinct) at home and you're going around hanging around doing something you've got no need to do. You're" - because his mum has got a sore back. She has had a sore back for ages, so sometimes it's a bit hard for her to get out of bed and stuff like that.

HIS HONOUR: Yes. Okay. So maybe he needs to pitch in and do some of the more physical chores around the place.

G, MR: Yes. Yes. That's right.

HIS HONOUR: Now, just moving on from 9 June, when this order was made, I think you were at the court. Am I right in thinking that, or it was his mum, was it?

G, MR: Probably - no. I think I missed court once, but I think his mum came once. I can't remember what day.

HIS HONOUR: Yes. Okay.

G, MR: But I've been mostly here most of the time.

HIS HONOUR: Yes. So going on what you've told me, you haven't been doing the fly-in/fly-out work from 9 June at least. Is that right?

G, MR: Yes.

HIS HONOUR: Yes. Okay. So can you tell me what has been happening with GG since 9 June, so far as him staying at home, doing as you say, not getting into trouble?

G, MR: Yes.

HIS HONOUR: Going to school - all these sorts of things. Can you tell me what has been happening since 9 June.

G, MR: He's - sometimes he's a bit hard to get out of - up to the school every day. Sometimes we get him off to school and - - -

HIS HONOUR: Is this the Balga school?

G, MR: It's the Balga school.

HIS HONOUR: Is there some issue up there?

G, MR: I don't know. That's what he's - we've tried to talk to him, and I've actually had a meeting with Craig Webster and another lady to try to work out something - what's going - if they can - - -

HIS HONOUR: Do they work at the school?

G, MR: - - - alter the classes or to try and help him out.

HIS HONOUR: Yes. Do those two people work at the school, do they?

G, MR: Yes. I think - yes. One actually works there and one works with the Juvenile Justice.

HIS HONOUR: Okay.

G, MR: So we had a meeting with them and he sort of said, "All right" - because we were going to - he was going to get, like, a - with a - get into, like, a joint venture with the Carey Mining, who actually do - like, in the building industry, just to help him get skills in the - and get that white ticket, just to get skills in the, like, building industry if they don't want to do any schoolwork.

Well, they're still going to do the schoolwork but they're still going to go through the criteria of getting, like, a qualification. And so then we sat down and he was going to do that. I've actually had the letter - the application letter and that, but then we thought about it and I've said to him, "Well, you're finding it hard to get to school. You know, how are you going to find it to get him to that little job thing?"

I said, "It's going to be twice as hard, plus you need the education to read and write to have those skills to actually do that job anyway." So we sat down with Craig and this other lady - I can't think of her name. But we decided he goes back to school, and I think they're trying just to get him at least do three days a week and then build on that. So that's where we're at at the moment.

HIS HONOUR: All right. What about staying home each night?

G, MR: He has been home most nights. Yes. Maybe on the weekend he might go out with friends but he only goes out to my cousin's house and he will come back, so in that regard he hasn't been too bad. He has been pretty good (indistinct) I've got it down to now that he has got to - he remembers my phone number, where he didn't used to have it before and then he would just get away, and I used to tell him, "If you ever get stuck somewhere, ring me up and I will come and pick you up. There's no need to go and steal a car or go with your friend who has got a car or something like that."

HIS HONOUR: Yes.

G, MR: "Ring me up and I will pick you up, no matter what time of the night it is. I would rather you ring me up than have the cops come around knocking on my door all hours of the night," because I did all that through the curfew with him, so when he's on the curfew (indistinct) on the curfew is I actually get up and open the door 2, 3 o'clock in the morning. I'm getting a bit over it, and I've told him that a few times.

HIS HONOUR: You're aware that he has been using drugs.

G, MR: He has. Yes.

HIS HONOUR: You know what cannabis smells like?

G, MR: Yes.

HIS HONOUR: Yes, yes. Have you got some house rules on whether people possess and smoke cannabis in your place?

G, MR: I have. Yes. Well - - -

HIS HONOUR: What's the rule?

G, MR: Well, him and his mother both (indistinct) smoke cigarettes. We don't - I very rarely have a beer, if that, and they sort of know - I've got notes and I've got even a sign on my door, you know, like, no drugs or drink in our house. So we try to do as much as we can, but they - kids will go out and they will find it around the corner, around the street - anywhere, you know. It's like - it's easy to - it's harder to find a kind that's not on drugs now unless you - you know, especially in the - out in Balga, Girrawheen, wherever that area - - -

HIS HONOUR: Have you had a word to him about his drug
- - -

G, MR: I've had - yes. I've had a - - -

HIS HONOUR: Yes. What have you told him?

G, MR: I've told him, you know, "It's no good for you. You're not going to learn nothing off it." I tell him - you know, I say - I've even got a couple of my cousins who are my age, who did the same sort of thing what he's doing now, and they're still walking around the street, walking down the road, doing nothing, you know, and - whereas I got my licence when I was 17, got a car, and I was working when I was 17/18. And they're still walking down the street doing the same thing, drunk, you know, and on drugs. I said, "You're not going to get nowhere. Balga is not going to change. Mirrabooka is not going to change. Perth is not going to change. You've got to make it change for yourself."

HIS HONOUR: Yes. Okay. Well, that's good advice. Now, he used to play football a couple of seasons ago, but he hasn't been doing that over the last couple of seasons
- - -

G, MR: Yes.

HIS HONOUR: - - - and just recreation generally. Why did that come to an end?

G, MR: I don't know. I've tried to ask him that myself, so - - -

HIS HONOUR: Yes.

G, MR: He was talking about going and playing football back next year. I said, "You know, you're going to leave it too late and then you're going to be too old."

HIS HONOUR: Anything else you wanted to tell me?

G, MR: I just wish he comes to the conclusion that he has run the race and it's not going to get him nowhere. That's the main thing, you know.

HIS HONOUR: Yes.

G, MR: I've told him that over and over, so - - -

HIS HONOUR: Okay. Now, what's your position? Are you going to go into a - I'm not saying you have to do anything in particular. I'm just wondering what is your situation. Are you going into a job or looking for a job or - - -

G, MR: I'm still looking for a job. Yes.

HIS HONOUR: Yes.

G, MR: The contractor guy I was working for, he has something coming up after the new financial year, so within this next month he has sort of got something planned for us, so - - -

HIS HONOUR: Okay.

G, MR: - - - I'm sort of hanging for that.

HIS HONOUR: So for the next week or two you will be around the place during the day?

G, MR: Yes. I will be around the place, yes, for the next (indistinct)

HIS HONOUR: Yes. Okay. And your wife, she's going to be home during the day - - -

G, MR: She will be home most of them. Yes.

HIS HONOUR: - - - with the bad back. I understand that. All right.

G, MR: Yes. Yes. Some days she has good days. Some days she's - - -

HIS HONOUR: Yes. Okay. Anything arising out of that, Mr Yoo?

YOO, MR: No, your Honour.

HIS HONOUR: Ms Collard?

COLLARD, MS: No, your Honour.

HIS HONOUR: No. All right. Thank you for that, Mr G. Just resume your seat to the back. GG, it looks like you've gone off - just stay seated. See that little black dot on the bench in front of you? That's a microphone, so it picks up what you say. Yes. It might help if you just lean a little bit forward towards it. Okay.

GG: Yes.

HIS HONOUR: You've gone off the rails big time over the last year or so, haven't you?

GG: Yes.

HIS HONOUR: Why is that?

GG: Hanging around with the wrong people and smoking.

HIS HONOUR: Yes. Well, you've been hanging around with them for a while, haven't you?

GG: Yes.

HIS HONOUR: Yes. So you've had lots of time to work out that you shouldn't be hanging around with them - - -

GG: Yes.

HIS HONOUR: - - - haven't you? Well, why did you keep hanging around with them when you knew that you were getting into trouble hanging around with them? Hey?

GG: Wouldn't have a clue.

HIS HONOUR: It was just the easy thing to do, was it? It was easy, wasn't it? Well, put it this way, GG: it was easier than staying home at night, doing the right thing, getting up in the morning, going to school - - -

GG: Yes.

HIS HONOUR: - - - doing your work, going to footy training, going playing games on the weekend, putting in the effort. All of that required some effort, and it was harder doing that than doing nothing much and hanging around with people, getting into trouble, using drugs. Am I right? Yes. So I go back to what I said before. You were taking the easy way, weren't you? Weren't you?

GG: Yes.

HIS HONOUR: Yes. Do you reckon you're going to get anywhere that's worth getting to if you just keep taking the easy way all the time? What do you reckon?

GG: No.

HIS HONOUR: Do you want to end up spending lengthy periods of time in detention?

GG: (indistinct)

HIS HONOUR: Pardon?

GG: No.

HIS HONOUR: No. Well, if you keep using drugs, mixing with people who get into trouble - and particularly older people - being involved in stealing motor vehicles, burglaries - you tell me. What do you reckon is going to happen to you?

GG: I will go back in.

GG: Pardon?

GG: Go back in Banksia.

HIS HONOUR: Yes. Have you got any idea about for how long you might be in Banksia, roughly? A long time? Yes. I think the magistrate might have made some mention about, "Keep this up and you will be a third-striker." Do you remember him saying that?

GG: (indistinct)

HIS HONOUR: Do you know what a third-striker is? What do you think it is?

GG: (indistinct)

HIS HONOUR: Pardon?

GG: (indistinct)

HIS HONOUR: Yes. But why? Do you know what a long time means?

GG: Yes.

HIS HONOUR: What do you think it means?

GG: Doing months.

HIS HONOUR: Pardon?

GG: (indistinct)

HIS HONOUR: 12 months, did you say? Yes, that's at least.

GG: (indistinct)

HIS HONOUR: Yes. So that's a year. So do you want to go to Banksia for a year at least? And what do you think will happen if you keep doing burglaries?

GG: (indistinct)

HIS HONOUR: Yes. That will happen, won't it? Yes. Now, what's the problem with school? Why weren't you going every day?

GG: (indistinct)

HIS HONOUR: You don't like it? Yes. There are probably lots of kids who don't like going to school, but they go every day. Do you know kids who don't like school but go every day? Yes. So you're not being asked to do something that other kids don't do, are you? Why did you stop playing footy? Pardon?

GG: (indistinct)

HIS HONOUR: Too lazy? Yes. Well, at least you're being honest with me. Are you going to go back and get involved in that? Yes.

GG: (indistinct)

HIS HONOUR: Yes. Well, the season is not finished yet, is it? So there's no reason why you can't at least start

going down to training, running around, having a kick. Whether you get selected is another thing, but you can start doing that, can't you? Yes. Are you going to?

GG: (indistinct)

HIS HONOUR: Pardon?

GG: Yes. Might as well.

HIS HONOUR: What did you say? "Might"?

GG: Yes. I said I might as well do it.

HIS HONOUR: May as well?

GG, MR: Yes.

HIS HONOUR: Yes. Good. And what about the cannabis?

GG: (indistinct)

HIS HONOUR: Pardon?

GG: I need to slow down.

HIS HONOUR: Slow down? Well, that's not good enough, is it? What word do you think I might have had in mind? 2

GG: Stop.

HIS HONOUR: Stop. Exactly. That has got to stop. I think the magistrate also told you that if you keep using that sort of stuff, you might end up being affected in the brain, and you might not be able to retrieve your position. You're not going to play very good footy if you've been using drugs, are you? No. And that's a good indication to you that using drugs is no good for you. I know you're surrounded by people who use them and it's hard not to, but you've got to find that strength somewhere, GG, and not use it.

See, you've been taking the easy way out on everything, haven't you? It's easier just to have drugs because other people are using it, and then "I'm just one of the boys." It's actually harder not using it, isn't it? Yes. So when you look at it, GG, you've got to start putting in the effort and doing some of the hard things, don't you? Yes. Are you capable of that? Yes. Would you prefer to be known as someone who just took the easy way out all the time or someone who was prepared to do some of

the hard things sometimes? Yes. And you've got to put that into action. You don't just say stuff like that. You've got to put it into action so people see you're actually doing it.

GG: Yes.

HIS HONOUR: Is that right?

GG: Yes.

HIS HONOUR: Because if you say it, but then people look at what you do and you're not doing it, they won't believe you, will they? No. Is there anything you wanted to tell me, GG, that you don't think has been covered? No? Now, who's the person who is going to make this order work or not work? Who's it going to come down to?

GG: Me.

HIS HONOUR: You. Okay. I will tell you what I'm going to do here, GG. It's my view that we hadn't reached the stage for a conditional release order to be imposed. A conditional release order is a combination of detention and also an intensive youth supervision order, which means you don't serve the detention immediately at Banksia, but you can go back into the community on the order, the intensive youth supervision order, but with the detention hanging over your head. As the magistrate explained to you, if you breached the order in the community, if you re-offended or if you failed to comply with the conditions, the detention, wholly or partly, would then be ordered to be served.

Now, I've just taken the view that, given a combination of things which I will mention in a moment, we hadn't reached that point with you, but in saying that, I want to make the point to you, GG, that in no way should it be thought by you to mean I don't think dwelling burglaries are serious and that I don't think being involved in stealing a motor vehicle is a serious thing to do. I do. The magistrate clearly did. Rightly so. Those things are very serious, and we've discussed this morning, if you're a third-strike offender for committing home burglaries, then you put yourself in the position of spending a year in Banksia, so clearly they're serious. So if you keep doing that sort of stuff, in the end, detention will be imposed.

My position is, given a combination of things, we hadn't reached the point of a conditional release order. All of these things in combination lead me to that

conclusion. Firstly, you pleaded guilty, so you put your hand up and owned up to the offending that you had been involved in. You cooperated in video records of interview with the police and made admissions. Now, that's significant.

I notice, with respect, the magistrate said that you don't get a great deal of credit by way of mitigation for pleading guilty, and that was mentioned because the State had a strong case. There were fingerprints in two instances, and you were caught on CCTV footage in relation to another instance, the burglary with intent, so there was a strong case, and that's, obviously, a factor relevant to the discount you get for pleading guilty.

But I don't think it is correct to say that you don't get a great deal of credit for pleading guilty because of that. You still do get significant credit. The maximum that could be given is 25 per cent. It may be just shy of the maximum, but it's still significant. I don't think it could be properly said to be not a great deal.

The other thing is your age. You're only 15 years and nine months of age now. Back in March, April, May, you were 15 years, five months, six months and seven months. So you're very young. So that's very weighty. And because of your age, you need to be dealt with according to the principles in the Young Offenders Act. In particular, those includes your rehabilitation, the protection of the community and punishment.

It's always necessary to work out the balancing of those principles by reference to the circumstances of the offence and the offender, and, I think, doing it that way in your case, there was a great deal of weight to be attached to rehabilitation, certainly some weight for protection of the community and punishment but not to the point where it outweighed rehabilitation in combination with everything else such that detention needed to be imposed.

The other factor is your record. Now, it is the case that you record has on it prior offences of dwelling burglary and stealing of a motor vehicle, GG. But your record is relatively short. Those two prior dwelling burglaries - one was dealt with by reference to a juvenile justice team and the other by reference to a court conferencing program. So your record is short.

And then when one looks at the factual circumstances of these offences of burglary, as I've said to you,

GG, every burglary on a dwelling is serious. It can't be understated. That said, these burglaries seem to me, on my assessment, to fall within the lower to mid range. So far as the stealing of the motor vehicle is concerned, I note that you were the passenger. You shouldn't have been in that. You knew it was stolen, but it wasn't you behind the wheel, that was in control of the car when it went on the high-speed pursuit.

The other thing is you haven't been on a court order prior to when this order was imposed. And, finally, it seems to me that you do have stable accommodation, not just the house but also people in it, and that's, obviously, good for your prospects of rehabilitation. And your dad is, obviously, very keen to mentor you and give you the right role modelling to make sure you stay out of trouble. The question is, GG, whether or not you comply with the things that he requires and he tells you.

You've got to do something about your substance abuse. That doesn't excuse any behaviour, GG. It might go to explain your behaviour and point to you mixing with negative peers and smoking cannabis, doing nothing much. So you've got to change your lifestyle big-time. Putting all of those things together, it's my view that we hadn't reached the point where detention needed to be imposed. That's both immediate and also in the form of a conditional release order.

My view is that the appropriate order for these offences - and I'm putting aside the stealing that was dealt with by way of section 67 and just dealing with those matters that were made the subject of the conditional release order. That order is cancelled, and in its place there's an intensive youth supervision order for a term of nine months. It's subject to you being supervised, subject to you engaging in substance abuse counselling, and it's also subject to you performing 60 hours unpaid work.

I think the initial number of hours imposed was 40. I actually think it should be 60, 20 more than 40, and that reflects, I think, the seriousness of the offending. And I should be up-front with you, GG. It's a punitive element or component of the order. Punishment. So do you understand that?

GG: Yes.

HIS HONOUR: I will give you credit for the number of hours that you've already done. Now, I should mention to you, GG, if, during the term of this order, you re-

offend or you don't do what you're required to do on the conditions of the order, you will be in breach of it, and if you're in breach of it, then you will be dealt with afresh for these matters that are the subject of it, that it has been imposed for. You understand that? Yes. In addition to being dealt with for whatever the new offence might happen to be, if it's a breach by way of re-offending. Okay?

And even if you don't do what you're supposed to, you don't engage in supervision or the substance abuse counselling - and that counselling is very important - and if you don't do any of the work, then I will take the view, GG, that you've got an attitude problem, you're not prepared to do the right thing, and if that's the case, you might end up being sentenced to some period of detention at some stage in the future.

So it's up to you as to what path you go down, GG, whether you comply, stay out of trouble, stay at home, listen to your dad, or whether you go down the other path of mixing with people who get into trouble, using the drugs, not doing much with your time, not going to school. That's your choice. Okay?

GG: Yes.

HIS HONOUR: I think I've dealt with everything. All right. Thank you for that.

AT 11.04 AM THE MATTER WAS ADJOURNED ACCORDINGLY

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