

Gianni Francis – DDP v Payne

A Bangholme man yesterday was jailed for 30 months after seeking revenge on his ex-partner by breaking into and trashing her house twice, leaving her and her children traumatised.

Anthony John Payne, 54, smashed a rear window on April 23, 2018 to gain entry to the victim's house after she and her children had left at 7:45am.

Payne described his actions as "vandalism", telling police that the damages would "at least be an annoyance to her" and that he "couldn't let her go", County Court Judge Frances Hogan [said in her sentencing remarks](#) on 17 July.

Judge Hogan did not mention the victim's name in her sentencing remarks.

The woman's 14-year-old daughter returned home from school to find someone had forced entry and used a knife to slash couches and bedheads, and spill yellow paint throughout the house.

Payne also turned off the hot water before leaving.

The woman's daughter observed Payne trespassing around five weeks later, retreating shortly after realising someone was home.

Payne returned the next day on May 31, 2018 and smashed a lounge room window to gain entry and trash the house a second time, cutting the cord of every electrical appliance in the house.

Guilty

Maximum sentence for each charge:

Two charges of burglary: 10 years.

Three charges of intentionally damaging property: 10 years.

One charge of summary trespassing: 10 years.

Sentence received:

Sentenced to 30 months imprisonment with a 15-month non-parole period.

- Charge 1. Burglary: 12 months.
- Charge 2. Intentionally damaging property: 12 months.
- Charge 3. Burglary: 12 months.
- Charge 4. Intentionally damaging property: 15 months.
- Charge 5. Intentionally damaging property: 5 months.
- Summary Charge of trespass: 3 months.

15-month base sentence on charge 4.

15-month cumulative sentence on remaining charges.

Maximum sentence of four years with a three-year non-parole period without the early guilty plea.

Judge Hogan said Payne's crimes had made the woman and her children "feel scared, insecure and unsafe in their own home" and that the victims' levels of anxiety increased after the second burglary.

Highlighting the duty of the courts to protect people so they can feel safe in their own homes, Judge Hogan denounced men who would commit crimes out of revenge, "borne of a sense of entitlement", against former partners and their families.

"It is imperative that men understand very clearly that they do not own their partners or former partners and offending by way of revenge or attempts to intimidate or frighten former partners will not be tolerated," Judge Hogan said.

"It is fundamental that an adult should be able to end a relationship without fearing reprisal from her former partner."

The woman was awoken some two months later, at approximately 10:45pm on July 24, 2018 by a loud bang after Payne threw several rocks at the house.

The woman first reported the crimes in April and May of 2018 on 9 August, and a Family Violence Intervention Order was issued on August 24, 2018.

Judge Hogan said "somewhat surprisingly" Payne was not arrested until 7 December 2018. He was not charged until he voluntarily attended Carrum Downs Police Station after being "apparently simply invited by police", six months later.

"The police investigation of your crimes should have proceeded more expeditiously," Judge Hogan said.

Payne was diagnosed with major depressive disorder, and in April 2020 made a "very serious suicide attempt" which Ms Lechner said resulted in a serious brain injury.

Judge Hogan dismissed Payne's legal counsel, Mr J Moore's, submission that Payne's early pleas of guilt held "some remorse" after finding initial police interviews gave no "strong impression" of remorse.

Judge Hogan also dismissed Mr Moore's claim that "there [was] no evidence that the offending was planned in any meaningful way".

“There was nothing spontaneous about your offending. It was persistent and repetitive in its nature. This increases your moral culpability, because you knew it was unlawful, yet failed to restrain yourself, and thereby increased the fear and erosion of security of your victim and her children,” Judge Hogan said.

“The fact that the burglaries and intentional damage of property have been committed in the home of your victim strikes at the fundamental entitlement of your victim and her children to feel comfortable and safe in their own home.”

Reflection

Court reporting is incredibly difficult and it's easy to misrepresent the events of a trial if a journalist doesn't have a good understanding of the proceedings. A journalist could editorialise the story to attract readers, perhaps the publication is driven by commercial interest, or perhaps the journalist may report the facts in such a way that supports their own ideas and beliefs.

But the role of the court reporter in open justice is clear, as is why media as an industry has reduced coverage of the courts. Journalists synthesise an incredible amount of information and legalese which they translate and condense into an accessible article to the public in “good faith”, which may be incredibly challenging, and expensive to the publication if the trial is incredibly complex.

The amount of complex information that needs to be condensed across the entire proceeding is not insignificant, and word limits are non-negotiable, so it is incredibly easy to over or underrepresent one party by reporting information that follows newsworthy principles. And that bias towards what will sell papers or bring in traffic may result in the omission of information that could be deemed as misrepresentation.

Even if the journalist is protected from defamation charges when reporting in good faith, it can be apparent to any reasonable critical thinker that there is a lack of objectivity within the article, even if the journalist intended objectivity. It's also possible for a journalist who may not fully appreciate or understand the importance of the spoken legalese in court, to fail in

accessibly delivering events of open court to the time poor public, because the language used in court is not even accessible to the journalist.

In reading other journalists court reports and recognising their bias within a news article that is by its very nature meant to be objective, I noticed the tendency to bias my own reporting of crime. This was a disturbing realisation of the power to smear an ordinary person's character, a smear that may result in the destruction of their career and standing in society. Using the quotes of the judge's denunciation of the crime(s), or commentary gives the journalist plausible deniability.

I ONLY used information from the Austlii court decision link, however I did use a [Star Journal article](#) to help me understand how to structure the story. This was the first time I had written a court story, and it was incredibly difficult. I think it would have been even harder had I been required to go to court and report on the proceedings. This is purely just a lack of experience and I would improve over time, but I also realised there is no room for a junior role in this area of reporting to have the opportunity to develop the skills on the publications payroll. A hint for future students; read court reporting and pay attention to their structure.