

## Parole Determination for Tara Gilbert

4 August 2023

# NSW STATE PAROLE AUTHORITY

## DETERMINATION FOR TARA GILBERT

### REASONS FOR DECISION

#### APPEARANCES

Ms Collins for the offender (who appeared by Audio Visual Link)

#### IN ATTENDANCE

Mr Royes, Community Corrections Officer (by telephone)

Members of the family of the victim, Ms Pye

#### INTRODUCTION

1. On 8 June 2023, the State Parole Authority of New South Wales (the Authority) formed an intention, pursuant to s 144(a) of the *Crimes (Administration of Sentences) Act 1999* (NSW) (the Act), to grant parole to Tara Gilbert (the offender). The matter came before the Authority for a review hearing on 1 August 2023, at the conclusion of which the Authority reserved its decision.
2. That decision, and the reasons for it, now follow.

#### THE SENTENCES IMPOSED ON THE OFFENDER

3. On 29 March 2010, the offender appeared before Lyons J in the Supreme Court of Queensland for sentence, following his pleas of guilty to offences of:
  - (i) murder;
  - (ii) armed robbery with personal violence; and
  - (iii) unlawful use of a motor vehicle to commit an indictable offence.
4. In respect of the count of murder, the offender was sentenced to life imprisonment, with a non-parole period of 15 years. No additional penalty was imposed in respect of the offending in (ii),

on the basis that it was entirely subsumed by the murder count. In respect of the offending in (iii), a concurrent penalty of 2 years imprisonment was imposed.

5. In June 2019, the offender made an application pursuant to the *Prisoners (Interstate Transfer) Act 1982* (NSW) for his transfer to New South Wales. That application was subsequently approved by the then Minister for Corrections.

## THE OFFENDING

6. The following summary of the offending is drawn from the reasons of the sentencing judge.
7. On the evening of 8 August 2008, the offender travelled to a shopping centre in the Brisbane suburb of Browns Plains with the intention of committing a series of robberies. Having arrived, he armed himself with two knives, disguised himself with a torn shirt and a hooded jumper, and hid in bushes.
8. At about 8.45 pm, the offender entered a store where Kristen Pye, who was then 25 years of age, was working alone. He demanded cash from Ms Pye, who removed money from the till and handed it to him.
9. The offender then left the counter area of the store, locked the front door, demanded to know the whereabouts of the safe, and further demanded that Ms Pye surrender her car keys and her phone. Ms Pye refused to do so, following which the offender severed the telephone line to the premises.
10. CCTV footage depicted the offender becoming increasingly agitated, to the point where he struck the countertop with one of the knives in his possession. Ms Pye seized that knife and a struggle ensued, in the course of which the offender removed the second knife from his trousers and began to repeatedly stab Ms Pye. Although Ms Pye struggled for a period of time, she was ultimately overwhelmed. The offender remained within the store for a period of time continuing to menace Ms Pye, before using the knife to cut a lanyard (to which her car keys were attached) from her neck. The offender then left with the cash which had been handed to him by Ms Pye and drove away in her vehicle.

11. Ms Pye had managed to activate a duress alarm during the course of the struggle with the offender. Police arrived a short time after the offender had left and found Ms Pye suffering from multiple stab wounds. Although barely conscious, she was able to identify the offender, and told police she had begged for her life, and was certain that the offender was going to kill her.
12. In the course of being taken to hospital by ambulance, Ms Pye went into cardiac arrest and was pronounced dead on arrival. Her vehicle was located a short time later.

### THE OBSERVATIONS OF THE SENTENCING JUDGE

13. Having viewed the CCTV footage of the incident, her Honour found the offender to have acted in a threatening, menacing and aggressive manner, which had put Ms Pye in fear of her life. Her Honour noted that a post-mortem examination established that Ms Pye had suffered six significant stab wounds, the most serious of which was to the lower outer quadrant of her left breast which was 125 mm in length, and which resulted in a complete incision of the fifth rib and a partial incision of the fourth rib.
14. By reference to the offender's interview with police following his arrest, her Honour noted that the offender had admitted that he:
  - (i) had planned to commit a series of armed robberies at various retail outlets;
  - (ii) was intending on rendering any employee at each outlet unconscious;
  - (iii) was planning to steal a vehicle from a staff member at the first outlet which he intended to use to travel to the other target locations; and
  - (iv) had knowingly stabbed Ms Pye to bring his struggle with her to an end.
15. In terms of the offender's subjective circumstances, her Honour noted that he was 21 years of age at the time of the offending, that he had lived part of his life in a "cult", and that he had previously expressed suicidal ideation.
16. In imposing sentence, her Honour took into account a number of what she described as "particularly insidious factors," including that:
  - (i) the offender had laid in wait for a period of 40 minutes, within which he had donned gloves, disguised his face, and armed himself with two knives;

- (ii) Ms Pye was working alone at night in an adult store, and was therefore a vulnerable and easy target;
- (iii) the attack on Ms Pye was vicious and pre-planned, and had involved the infliction of multiple stab wounds;
- (iv) the offender initially had an intention to harm Ms Pye, which was then changed to an intention to kill her; and
- (v) the offender, having stabbed Ms Pye, continued to menace her whilst she was severely injured, before leaving her as she fell into unconsciousness.

17. Her Honour also made specific reference to the significant impact of Ms Pye's death on her family.

#### **THE PRE-RELEASE REPORT**

18. A Pre-release report of 11 May 2023 was provided to the Authority for its assistance, in which it was stated that the offender was a citizen of New Zealand and would be deported from Australia upon his release. The report also noted that the offender appeared to accept responsibility and had expressed remorse for his offending.

19. The offender expressed a willingness to accept appropriate interventions if granted parole, and an intention to engage with transitional support services to improve his chances of returning to a law-abiding life in the community. Consistent with those expressions, the offender completed a number of offence related programs in custody in early 2021. Since his transfer to New South Wales, he had not incurred any institutional misconduct charges, and was housed in an accommodation unit generally reserved for offenders who had demonstrated a good level of compliance with correctional centre routines. He had also held a number of different positions of employment whilst in custody and was described as a good worker who did not cause any issues in the workplace.

20. The Pre-Release report recommended the offender's release, noting that in the event of his deportation it was likely that the New Zealand Department of Corrections would make application for a "Returning Offenders Order" the effect of which would be that the offender would be placed under supervision for a period of 5 years, which would include a component of

practical support to assist with his initial re-settlement, including securing accommodation and accessing available Government benefits.

### **THE REPORT OF THE SERIOUS OFFENDERS REVIEW COUNCIL**

21. The Serious Offenders Review Council (SORC) provided a report to the Authority of 16 May 2023 advising that the offender's release to parole was appropriate. Having noted a number of aspects of the Pre-release report, the SORC report concluded:

*Given his program completion, stable behaviour and excellent work ethic, we do not regard that participation in external leave is a necessary pre-condition for his release to parole and the protection of the public. There is nothing more we require of him while he remains in custody. We note that parole supervision is available to him in New Zealand to assist his re-integration there. We advise that his release to parole is appropriate.*

22. Under s 185(3) of the Act, the Authority must have regard to the advice provided by SORC in its report.

### **THE INTENTION TO GRANT PAROLE**

23. The Authority formed an intention to grant parole to the offender on 8 June 2023 and was subsequently advised that the Commissioner for Corrective Services NSW would not make any submissions opposing the offender's release.

### **THE SUPPLEMENTARY PRE-RELEASE REPORT**

24. The Authority received a supplementary Pre-release report dated 27 June 2023 which confirmed the previous recommendation that the offender be released, noting that he had continued to display satisfactory behaviour in custody.

### **SUBMISSIONS FROM MEMBERS OF THE FAMILY OF MS PYE**

25. On 31 July 2023, the Authority received three documents from members of Ms Pye's family, which are addressed below and which the Authority has treated (in part) as submissions opposing the offender's release. The receipt of those submissions engaged s 148(1)(b) of the Act, which encompasses the principle that the Authority will reconsider its initial intention to make parole order if there are submissions to the contrary.

## THE REVIEW HEARING

### **Submissions on behalf of the offender**

26. Ms Oliver, who appeared for the offender, relied on the various reports set out above in support of a submission that an order should be made for the offender's release. In short, she pointed to the fact that the offender had undertaken relevant programs, had behaved in an exemplary fashion in custody, and would have the benefit of supervision when inevitably deported to New Zealand.

### **Submissions made by members of Ms Pye's family**

27. The three documents referred to previously set out the impact of the offending on members of Ms Pye's family. However, to varying degrees those documents also incorporate statements of abuse directed towards the offender. For the reasons explained at the review hearing, and however understandable (at least at one level) the expression of such sentiments might be, proceedings before the Authority simply cannot be used as a vehicle for expressions of vitriol towards any offender. None of those observations are intended, in any way, to be critical of any member of Ms Pye's family who provided a statement, or who attended the review hearing. The Authority expressly acknowledges the difficulty and trauma with which each of them have had to address the prospect of the offender's release, and the procedures surrounding it.

28. In all of these circumstances, the Authority has treated the documents received from Ms Pye's family, firstly as amounting to a submission that the offender should not be released because he is likely to offend again, and secondly as evidence of the ongoing effect of the offending on each of them, and on the family as a whole.

## CONSIDERATION

29. Section 135(1) of the Act provides that the Authority must not make a parole order directing an offender's release unless it is satisfied that it is in the interests of the safety of the community to do so. In considering whether it is so satisfied, the Authority must have regard, insofar as they are applicable, to the factors set out in subs. 135(2) and (3). No single factor is determinative of the Authority's decision. Section 135 requires the Authority to conduct a balancing exercise, taking all relevant factors into account.

30. By reference to such factors, the following matters are noted:

- (i) the Pre-release report assessed the offender as being at a low risk of re-offending and recommended his release [s 135(2)(a)];
- (ii) any risk of re-offending is, in the Authority's view, likely to be addressed by the offender's conditional release on parole, bearing in mind the inevitability that he will be deported to New Zealand (a course which he does not contest), and will be under supervision, with appropriate support, for the next 5 years [s 135(2)(b) and (c)];
- (iii) the offending was obviously serious, and was assessed as such by the sentencing judge [s135(3)(a) and (b)];
- (iv) the offender has no other criminal history [s 135(3)(c)];
- (v) the effect of the offending on the members of Ms Pye's family has been, and continues to be, profound [s 135(3)(d)];
- (vi) the Pre-release report and the Supplementary report both support the offender's release [s135(3)(f)];
- (vii) SORC has advised the Authority that the offender's release is appropriate [s135(3)(g)];
- (viii) the offender has:
  - (a) completed a number of remedial courses whilst in custody,;
  - (b) demonstrated satisfactory behaviour in custody;
  - (c) participated in community projects;
  - (d) formulated suitable post release plans in the community; and
  - (e) expressed a willingness to engage in appropriate interventions which are available [s 135(3)(j)]; and
- (ix) there is, in the Authority's view, a need for the offender to have a period of parole supervision to minimise the effects of institutionalisation and facilitate contact with appropriate support services on his return to New Zealand [s135(3)(j)].

31. As previously indicated, the Authority has taken into account the submission of the members of Ms Pye's family that the offender is likely to offend again if released [s135(3)(j)]. In the Authority's view, the assessment in the Pre-release report that the offender's risk of re-offending is low tends against a conclusion that he is likely to offend if released.

32. Finally, it is noted that in the course of the review hearing an oral submission was made by one of the members of Ms Pye's family that in the event that the Authority determined that the

offender should be released; a condition should be imposed preventing his return to Queensland. Given that the offender is to be deported to New Zealand, there may be limited utility in imposing such a condition. That said, if the offender were to return to Australia, he would obviously be bound by the conditions set out below. One of those conditions (condition 10) prevents him leaving the State of New South Wales without approval.

### **CONCLUSION AND ORDERS**

33. Taking all of these factors into account, the Authority is satisfied that it is in the interests of the safety of the community that the offender be released. Accordingly, the Authority orders that the offender be released not earlier than 15 August 2023 and not later than 22 August 2023.

34. The conditions of the offender's release are as follows:

While you are on parole:

1. You must be of good behaviour.
2. You must not commit any offences.
3. You must adapt to normal lawful community life.

When you are first released on parole:

4. You must report:
  - (a) to a community corrections officer at a time and place directed, or
  - (b) if you have not been given a direction, to a Community Corrections office within 7 days of your release.

While your parole is supervised:

5. You must report to a community corrections officer at the times and places directed by the officer.
6. You must comply with all reasonable directions from a community corrections officer about:
  - (a) the place where you will live;
  - (b) participating in programs, treatment, interventions, or other related activities;
  - (c) participating in employment, education, training, or other related activities;
  - (d) not undertaking specified employment, education, training, volunteer, leisure, or other activities;
  - (e) not associating with specified people;
  - (f) not visiting or frequenting specified places or areas;
  - (g) ceasing drug use;

- (h) ceasing or reducing alcohol use;
  - (i) drug and alcohol testing;
  - (j) monitoring your compliance with the parole order;
  - (k) giving consent to third parties to provide information to the officer that is relevant to your compliance with the parole order.
7. You must comply with any other reasonable directions from a community corrections officer.
  8. You must permit a community corrections officer to visit you at the place where you live at any time and permit the officer to enter the premises when they visit you.
  9. You must notify a community corrections officer if you change your address, contact details or employment. You must do this before the change occurs if practicable, or within 7 days of the change occurring.
  10. You must not leave New South Wales without permission from a community corrections manager.
  11. You must not leave Australia without permission from the State Parole Authority.
35. The additional conditions imposed by the Authority are as follows:
24. You must not communicate with, watch, stalk, harass or intimidate the victims' family.
  32. You must submit to the supervision of Community Corrections in New South Wales, until such time as you have been removed from Australia. If you are released from Immigration detention or return to Australia before the expiry of your parole order, you must report to Community Corrections New South Wales within seven days.

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