

# Parole Determination

## William Ngati

2 April 2024

### STATE PAROLE AUTHORITY OF NEW SOUTH WALES

#### RE: WILLIAM NGATI

#### REASONS FOR DETERMINATION

**The Honourable G J Bellew SC (Chairperson)**  
**Mr B Gillies – Community Corrections Representative**  
**Ms M Borg – Police Representative**  
**Ms M Miller – Community Member**  
**Ms D Wallace – Community Member**

#### APPEARANCES:

**Mr M Bogunovich (Prisoners Legal Service) for the Offender**  
**Mr M Gardiner (Office of the Crown Solicitor for NSW) for the Commissioner for Corrective Services**

#### DECISION:

See [39]-[40]

#### BACKGROUND

1. On 2 February 2024, the State Parole Authority of New South Wales (the Authority) considered the release on parole of William Ngati (the offender). On that occasion, for the reasons stated at the time, the Authority formed an intention to grant parole pursuant to s. 144(1) of the *Crimes (Administration of Sentences) Act 1999* (the Act).
2. The matter came before the Authority for hearing on 15 March 2024. On that occasion the Authority had the benefit of hearing submissions on behalf of the Offender, and on behalf of the Commissioner of Police. The Authority also had the benefit of hearing a submission from Ms Aimee Sassine, the mother of the victim of the offending. Judgment was reserved, pending receipt of a transcript of the proceedings. That transcript having now been received; the Authority is in a position to deliver its determination.

**AN OVERVIEW OF THE OFFENDING**

3. The offender was arrested by police on the evening of 31 December following a high-speed police pursuit, in the course of which a 19-month-old child, Skye Sassine, was killed. The police pursuit had been initiated as a consequence of the offender's attempt to evade arrest for a series of robberies which he had previously committed, some earlier that day.
  
4. Following his arrest, the offender was charged with the following offences:
  1. robbery in company with wounding, contrary to s. 98 of the *Crimes Act 1900* (NSW) committed on 14 December 2009;
  2. armed robbery, contrary to s. 97(1) of the *Crimes Act 1900* (NSW), committed on 19 December 2009;
  3. robbery in company while armed with dangerous weapon, contrary to s. 98 of the *Crimes Act 1900* (NSW), committed on 31 December 2009;
  4. robbery in company while armed with dangerous weapon, contrary to s. 98 of the *Crimes Act 1900* (NSW), committed on 31 December 2009;
  5. manslaughter, committed on 31 December 2009;
  6. attempting to unlawfully take/drive a motor vehicle with person in/on it, contrary to s. 154C(1)(b) of the *Crimes Act 1900* (NSW) committed on 31 December 2009.

**The individual offences**

5. The following summaries of the individual offences are drawn from the submissions provided to the Authority on behalf of the Commissioner.

**14 December 2019**

6. On 14 December 2009 the offender and two unidentified co-offenders entered the South Bankstown Newsagency. The offender was wearing a grey coloured long-sleeve hooded jumper, dark long pants, gloves, a baseball cap and a bandana over the bottom half of his face. Truong Nguyen (the victim) was working at the Newsagency at the time. The offender pointed a replica pistol at the victim and told him to open the tills. The two unidentified offenders were

armed with knives. The victim called out to his father, who was in the storeroom at the rear of the newsagency. The victim's father picked up a large rock and threw it at the offender, missing him. The offender responded by picking up the rock and throwing it at the victim, striking him to the back of the head. A physical confrontation ensued between the offender and the victim, following which the offender emptied \$1,200 from the cash register before leaving the Newsagency with the two co-offenders.

### **19 December 2019 – Revesby Cellars**

7. The offender and a co-offender (Pham) entered Revesby Cellars, a liquor store on Canterbury Road, Revesby. The offender was wearing a hooded jumper, track pants, a cap and a cloth covering over his face, and was carrying a large knife. Pham was in possession of a tomahawk-type axe which was secreted in a carry bag. Damien Tchaikovski (the victim) was working in the premises. The offender demanded that the victim open the cash register and safe, following which he stole \$3,550.00, a laptop computer, a gift voucher valued at \$500, eight packets of cigarettes, a phone and a wallet.

### **31 December 2009 – Liquor Stores at Peakhurst and East Hills**

8. Ian Gong (the victim) was the owner of the Little Bottler Shop, a liquor store at Peakhurst. He was working in the store on the evening of 31 December 2009 with a Mr Nastroli. At about 6pm, the offender and a co-offender (Bell) entered the store wearing gloves and balaclavas. The offender was armed with a large kitchen knife and Bell was armed with a shortened firearm. The offender and Bell demanded money from the till from the victim and demanded to know the whereabouts of the safe. Bell directed the victim and Mr Nastroli to get on the ground. After a short period of time, the offender and Bell left the store with about \$500 in cash and two bottles of alcohol.
9. The offender and Bell then drove to another liquor store in East Hills owned by Ashley Croucher (the victim) who was working in the store with Greg Turner, an employee. The offender and Bell entered the store, again armed with the kitchen knife and a firearm respectively. The victim and

Mr Turner were both present, along with a customer. The offender and Bell threatened to shoot the victim, before proceeding to steal \$700 in cash and leaving the shop.

### **The police pursuit, manslaughter and attempt to take and drive a motor vehicle**

10. The offender drove away from the liquor shop in East Hills with Bell lying down in the rear of the vehicle. By this time, police had been called and they observed the vehicle stopped at an intersection in Revesby. They unsuccessfully attempted to stop the vehicle while it was stationary and initiated a pursuit.
11. Police then pursued the offender's vehicle while it crossed to the incorrect side of the road, travelled through red lights, and reached speeds of up to 160km/h in areas signposted with a 70km/h speed limit. The pursuit continued at speed along various roads through Liverpool, eventually reaching the Hume Highway near Campbelltown. As the offender's vehicle swerved between lanes at speed, it impacted with the rear of a vehicle driven by Ms Sassine, who was travelling with her partner, Justin Wright and their 19-month-old daughter, Skye. The collision caused Ms Sassine's vehicle to impact heavily with the railing on the side of the road before colliding into a concrete barrier. As a result of the impact, Skye received fatal injuries.
12. After colliding with Ms Sassine's vehicle, the offender and Bell got out and attempted to continue to evade police. The offender approached the driver's side door of a vehicle that had stopped due to the collision and attempted to open it, shouting at the driver to "get out". The offender was then arrested by police at gunpoint. At the time of the offending the offender was subject to arrest for breaching his then parole order.

### **THE SENTENCE PROCEEDINGS**

13. The offender pleaded guilty to the offences previously set out, and additional matters were taken into account on a Form 1. He was sentenced on 25 May 2012 in the District Court of New South Wales to a total effective sentence of 19 years and 3 months with a non-parole period of 13 years and 3 months. His earliest possible release date is 4 April 2024. His sentence will expire on 4 April 2029.

14. When sentencing the offender, the sentencing Judge described the offender as having engaged in irresponsible conduct over a prolonged period, which was reprehensible and fell “miserably short” of the standard of any reasonable person. expressed the view that the offender’s prospects of rehabilitation were “extremely poor”. His Honour recommended that in the event that the offender did not demonstrate a commitment to rehabilitation, he not be released on parole. Release on parole is, of course, a matter for the Authority’s determination. For the reasons developed more fully below, the Authority has come to the view that the offender’s release is appropriate. It has come to that view with the benefit of a considerable amount of material which, of course, was not available to the sentencing Judge.

## **REPORTS PROVIDED TO THE AUTHORITY**

### **The Pre-release report from Community Corrections dated 4 January 2024**

15. A Pre-release report of 4 January 2024 noted that the offender had reported that at the time of the offending, his life had revolved around heroin addiction. The author of the report noted that at the present time, the offender had the benefit of a number of pro-social supports within the community. The availability of those supports is corroborated by written expressions of unequivocal support from members of the offender’s family.

16. The Pre-release report also noted that the offender had commenced the Buvidal program in 2020 and that since that time had not come under notice for any drug-related activity in custody. The author of the report acknowledged that whilst the offender’s behaviour in custody had historically been poor, there had been a recent improvement which, in the author’s view, represented a shift in the offender’s general attitude, and a commitment to behavioural change.

17. The report confirmed that the offender completed the Violent Offenders Treatment Program (VOTP) on 31 October 2023. His psychologist noted that he had made positive and meaningful contributions to the program.

18. The author of the report expressed the view that the offender would benefit from a substantial period of parole supervision. In recommending the offender's release, the report stated:

[The offender] has completed the VOTP and has sound post release plans. It is deemed the most appropriate pathway for him [is] to engage in a meaningful period of supervision in the community.

19. In the context of making that recommendation, the report set out a stringent supervision plan which has been developed (in addition to any conditions the Authority might impose in the event of release), and which incorporates:

- (i) the offender residing at an address which is known to, and approved by, Community Corrections;
- (ii) referring the offender to drug health services for relapse prevention counselling;
- (iii) referring the offender for the completion of VOTP maintenance in the community;
- (iv) referring the offender to a General Practitioner for the implementation of a mental health treatment plan;
- (v) carrying out periodic intelligence checks with police to monitor the offender's behaviour and associations; and
- (vi) subjecting the offender to random drug testing.

#### **The report of the Serious Offenders Review Council dated 18 January 2024**

20. In a report to the Authority of 18 January 2024, the Serious Offenders Review Council undertook an exhaustive review of available material, before expressing the following conclusion:

Realistically, we question whether keeping him in custody any further will advance his prospects of re-integration and may only lead to frustration and antipathy. As he has got to the stage of a positive mindset and behaviour, we believe that supervision on parole is the best course for his re-integration and the protection of the public. We advise that his release to parole is appropriate.

#### **The Supplementary Pre-release report dated 27 February 2024**

21. A supplementary Pre-release report prepared by Community Corrections noted that on 6 February, the offender was involved in an incident where he was verbally aggressive towards, and threatened to assault, a custodial officer. However, the report went on to say that

custodial officers had otherwise indicated that the offender was respectful and compliant with centre routine.

22. It was noted that the offender's post release plans, which were previously assessed as "sound", remained unchanged. The previous unequivocal recommendation that the offender be released on parole was confirmed.

### **Submissions on behalf of the victim**

23. The Authority had the benefit of hearing a submission from Ms Sassine at the hearing on 15 March 2024. Ms Sassine firmly opposed what she described the offender's "early release" and submitted that he had not demonstrated any remorse. She asked, in the event that the Authority determined that release was appropriate, to impose any necessary condition(s) preventing the offender from being in the vicinity of her and/or her family.

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

24. It was submitted on behalf of the offender that the entirety of the reports made available to the Authority supported the offender's release on parole. It was submitted, in particular, that the views expressed by the Serious Offenders Review Counsel were deserving of particular weight, given that those views had been formed with the benefit of some six years of direct contact with the offender, and a comprehensive review of all of the available material.
25. It was further submitted that this was not a case of the offender's efforts towards rehabilitation having come at a late stage, and that on the whole of the evidence, those efforts had been ongoing over a period of time. It was submitted that there had been "a real shift in mentality" on the part of the offender, consistent with a long-term commitment to rehabilitation, and the expression of genuine remorse. Reliance was also placed on the offender's post-release plans which, it was submitted, would be implemented in association with what was described as "an uncommonly high level of family support".

### Submissions on behalf of the Commissioner

26. The Authority had the benefit of comprehensive and helpful submissions made by Mr Gardiner on behalf of the Commissioner, both orally and in writing. The Commissioner has opposed the offender's release, and his position can be summarised in the following propositions.
27. First, the Commissioner drew attention to the fact that the offending in question was committed whilst the offender was on parole for previous offending. That said, the Commissioner acknowledged that the offending took place some considerable time ago, and that the Authority had the benefit of a great deal of evidence setting out the offender's progress in custody since that time.
28. Secondly, whilst expressly acknowledging the gains made by the offender in custody (including, but not limited to, his successful completion of the VOTP), the Commissioner submitted that those gains, although significant, did not mitigate, or sufficiently mitigate, the risk to the community.
29. Thirdly, the Commissioner submitted that the proper and cautious approach would be to implement a re-classification of the offender and introduce a program of structured re-engagement in the community by way of periodic leave, in the form of day or weekend release. It should be noted that in the course of the hearing, Mr Gardiner ultimately accepted that the offender's release on parole, with the supervision plan previously outlined in place, would offer a far more substantial level of monitoring than would be the case if the approach advocated by the Commissioner were implemented.

### **CONSIDERATION**

30. In considering the offender's release, the Authority is bound by the provisions of s 135 of the Act. Section 135(1) provides, fundamentally, 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. For the purposes of considering whether that state of satisfaction has



been reached, ss 135(2) and (3) set out a number of mandatory considerations to which the Authority must have regard. By reference to those factors, and for the reasons that follow, the Authority is satisfied that it is in the interests of the safety of the community to make an order releasing the offender.

31. The Authority has considered the risk to the safety of the community [s 135(2)(a)] and has come to the view that, whilst there is necessarily some risk, it has been mitigated by the offender's completion of the VOTP and will be further mitigated by the stringent supervision plan which has been set out above, and which will be implemented on release. It is the Authority's view that this plan is likely to address the risk of re-offending [s 135(2)(b)]. In the Authority's view, there would be a substantially greater risk posed to community safety if the offender were released at a later time with a shortened period of supervision, or, worse still, at the end of his sentence without any supervision at all [s 135(2)(c)].
32. The nature and circumstances of the offending [s 135(3)(a)] have been set out at length. Any comment about the objective seriousness of that offending would be superfluous and the observations of the sentencing Judge have been taken into account [s135(3)(b)]. Those observations do not bind the Authority. Nevertheless, the Authority is satisfied, on the whole of the material before it, that the commitment to rehabilitation of which his Honour spoke has been demonstrated by the offender. The offender has a lengthy criminal history [s 135(3)(c)] but in the Authority's view that is not, of itself, a reason to order that he remain in custody.
33. The Authority has considered the submissions made by Ms Sassine [s 135(3)(d)]. It must be emphasised that any order for the offender's release is not one which has the effect of releasing the offender "early". It is an order which releases him at the expiration of the minimum term that he was ordered to spend in custody. For the reasons already stated, it is the Authority's view that the community's safety is best protected by the offender's release with close supervision, rather than his release at some later time with no supervision at all.

34. Needless to say, the Authority is mindful of Ms Sassine's request not to allow the offender to come within the vicinity of her and/or her family and will impose a condition to that effect.
35. The Authority has considered the reports provided to it by Community Corrections and the Serious Offenders Review Council [s 135(3)(f) and (g)]. All of those reports, without exception, unequivocally support the offender's release.
36. Finally, the Authority has considered the submissions made on behalf of the offender, and on behalf of the Commissioner [s135(3)(j)]. As far as the Commissioner's position is concerned, the Authority is unable to accept the submission that a period of structured leave would be of any tangible benefit in terms of community safety. In the Authority's view, it would be far more conducive to community safety for the offender to be monitored under the supervision plan which has been put in place.

## **ORDERS**

37. For the reasons given the Authority considers that the offender's release is appropriate.
38. The offender is to be released not earlier than 16 April 2024 and no later than 7 May 2024.
39. Such release will be subject to conditions that the offender:
1. must be of good behaviour.
  2. must not commit any offences.
  3. must adapt to normal lawful community life.

When first released on parole:

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

While parole is supervised:

5. must report to a community corrections officer at the times and places directed by the officer\*.
6. must comply with all reasonable directions from a community corrections officer about:
  - a) the place where he 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. must comply with any other reasonable directions from a community corrections officer.
8. 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. 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. must not leave New South Wales without permission from a community corrections manager.
11. must not leave Australia without permission from the State Parole Authority.

**ADDITIONAL CONDITIONS IMPOSED BY THE STATE PAROLE AUTHORITY:**

The offender must:

- 16(b) - not use a prohibited drug or substance, except those that have been prescribed for him.
- 19 – if so directed, participate in the following intervention: VOTP maintenance.
- 22 – not possess or use a firearm or any prohibited weapon.

24 – not contact, communicate with, watch, stalk, harass or intimidate the victims or the victims’ family.

28 – not contact, communicate, or associate with his co-offenders, without the express prior approval of his officer.

30 – not frequent or visit the Campbelltown LGA.