

COURT OF APPEAL

McMURDO P
WILLIAMS JA
MUIR J

CA No 342 of 2001

THE QUEEN

v.

DARRELL CHRISTOPHER WALTERS

BRISBANE

..DATE 14/03/2002

JUDGMENT

THE PRESIDENT: The applicant pleaded guilty to four counts of unlawful possession of a motor vehicle with a circumstance of aggravation and two counts of fraud with a circumstance of aggravation in the Southport District Court. He was sentenced to an effective term of three years' imprisonment with the recommendation for parole after 12 months. He contends the sentence was manifestly excessive.

In January 1999 interstate detectives began Operation Ancient, targeted at offenders re-identifying stolen vehicles.

On 23 January 1999 police found a Ford Fairlane without vehicle identification plates at Tojo Wrecking, Currumbin. The vehicle was sold to them by the applicant. The applicant was spoken to by police but declined to be interviewed. He did, however, consent to a search of his shed and home. Items located in the search, Queensland Transport records and forensic examination of vehicles in the possession of the applicant or recently sold by him to innocent third parties resulted in the charges on the indictment. Police recovered four stolen vehicles either with false identification plates or without vehicle identification plates.

A Holden Commodore VP was stolen on 12 May 1998 from Miami. The insurance payout was \$18,000. One month later the complainant noticed his vehicle with a "for sale" sign on it outside a West Burleigh shop. It now had a different

registration number. He met with the applicant who was selling the vehicle. On inspection he noted the vehicle identification plate was missing and the compliance plates gone. The applicant named a selling price of \$15,500 but said he was prepared to drop to \$13,000 to effect a sale. He told the complainant he had other vehicles for sale if this did not suit.

The complainant notified police, who, in turn, made inquiries with the Transport Department, which revealed that the applicant had effected new registration of the vehicle by pretending the vehicle was a former wreck. The applicant had bought that wreck legitimately and subsequently transferred its engine numbers to the stolen vehicle and registered the stolen vehicle as the wreck. These facts constituted count 1.

Count 2 involved the prisoner on selling that car for \$13,000 to an innocent third party.

On the 20th November 1998 a blue Commodore S Pack Sedan was stolen from a Currumbin car yard. Its insurance payout was \$14,245. A blue Commodore with a different registration number was written off in a road accident, the wreck was sold to the prisoner in September 1998, and it was in his possession, with vehicle identification plates removed, when police searched his shed. The applicant sold a blue Commodore to a Currumbin car yard on 18 December 1998, maintaining that

it was a wrecked vehicle when it was in fact a stolen vehicle. These facts constituted count 3.

Count 4 occurred in this way. A Ford Fairlane was stolen from Boronia Heights on 13 January 1998. Its insurance payout was \$14,700. In February 1998 a silver Ford Fairlane was written off in a car accident at Carrara. The prisoner purchased that wreck in December 1998 for about \$2,000. On 4 January 1999 he sold what he claimed to be this wreck to the Tojo wrecking yard for \$1,000. The vehicle identification plates were missing from the vehicle. Police discovered the wreck, without its vehicle identification numbers, in the applicant's possession during their search.

Police established through Queensland Transport records that the vehicle identification number had been placed on a vehicle the applicant sold to a bona fide third party. This sale constituted count 5 and the sale was for \$5,500.

A red Ford Laser hatch was stolen from outside the Gold Coast Hospital on 28 January 1998. Its insurance payout was \$13,000. On 8 December 1998 the defendant purchased a red Ford Laser wreck for \$800 and sold it to Tojo Wreckers for \$200 a few weeks later with the vehicle identification compliance plates missing. The engine from the wreck was found in the applicant's shed during the search, as was an unregistered Ford Laser hatch, which was identified as the

vehicle stolen from the Gold Coast Hospital. It was carrying the vehicle identification number from the wreck, which of course was not authentic. These facts constituted count 6.

The total loss to complainants or insurers is \$78,445. The applicant gained \$18,500 from on selling these vehicles to innocent third parties.

The applicant notified his intention to plead guilty after a full committal hearing but at a relatively early stage. The applicant had no like criminal history but was sentenced to two and a half years' imprisonment suspended after three months in the Brisbane Supreme Court on 24 September 1999 for possessing schedule 2 and 3 dangerous drugs. He is 32 years old.

His counsel at sentence told the Court that he was lawfully engaged in legitimate businesses relating to motor vehicles. He was introduced to recreational drugs through his girlfriend. His businesses began to suffer from an escalating drug habit and he borrowed money from a loan shark in order to meet his wages bill. He then became involved in this criminal conduct. He did not steal the cars but they were provided to him in circumstances where realistically he was aware that they were stolen. His judgment was impaired because of his drug abuse and difficulties with his personal relationships. He has recently returned to live with his parents in

Melbourne, who have assisted him in withdrawing from illegal drugs.

Whilst this is commendable, the applicant is a mature man. These offences constituted a systematic fraud for a considerable financial gain. The theft of motor vehicles is prevalent and conduct like the applicant's encourages the actual car thieves. He had developed a profitable business system involving the re-identification and sale of stolen vehicles. A deterrent sentence is needed.

In the applicant's favour is his lack of prior convictions for similar offences, his attempts at rehabilitation and his plea of guilty.

The matters of R v. Nomikos and Luff [1999] QCA 195, CA No 98 of 1999, CA No 102 of 1999, 27 May 1999, R v. Priman [1999] QCA 65 CA No 426 of 1998, 15 March 1999, and R v. Davies [1995] QCA 634 CA No 330 of 1995, 24 October 1995 demonstrate that this sentence was within the appropriate range. It is not manifestly excessive.

I would refuse the application for leave to appeal against sentence.

WILLIAMS JA: I agree. I would merely add that the activities of the applicant which establish the charges to which he

pleaded guilty demonstrate that this was a commercial enterprise. In those circumstances, the sentence, if anything, was a light one and one that reflects his otherwise previous good character.

MUIR J: I agree.

THE PRESIDENT: The order is the application is refused.
