

HER HONOUR:

- 1 **Mr Thomas**, you have pleaded guilty to the murder of Jason Moran which occurred on 21 June 2003 in the Cross Keys Reserve in Pascoe Vale. The Crown position as stated by the Senior Crown Prosecutor, Mr Horgan SC, in respect of your plea is as follows: that Jason Moran and Pasquale Barbaro were shot dead in the carpark at the Cross Keys Reserve in Pascoe Vale on that date. They were in a van about to drive 10 children home from the Auskick football clinic, including the children of Jason Moran. The children were in the rear of the van. **Mr Andrews** had been driven to the reserve area by **Mr McGrath**, who dropped him off near the van and drove off. **Mr McGrath**, **Mr Andrews** approached the van and, using a shotgun, fired through the window of the van. He then dropped that weapon and used a hand gun pointed through the driver's side window, aiming at the head of Jason Moran. Both Jason Moran, who was seated in the driver's side, and Pasquale Barbaro, who was in the passenger seat of the vehicle, were killed.
- 2 The Crown accepted for the purposes of your plea that the target for your attack was Jason Moran. Pasquale Barbaro was an unintended victim who was, as the prosecutor stated, "In the wrong place at the wrong time".
- 3 The background to this killing was the enmity between Carl Williams and the Morans, over the Morans' shooting of Williams in the stomach some years earlier. The killing of Jason Moran was to take place as close as possible to the anniversary of the death of Mark Moran, the murdered brother of Jason Moran. Your role in respect of this murder was that you were one of the counsellors and procurers. The Crown accept that you supplied one of the weapons, the shotgun, and that you also cut it down in size. Further, you supplied information as to Jason Moran's whereabouts, so that he could be murdered by **Mr Andrews** assisted by **Mr McGrath**, and you further agreed to assist Williams by providing an alibi for the time of the murder.
- 4 You have made a detailed statement about your part in this murder and the

part of others. You have sworn before me that you are willing to give evidence in accord with that statement. You have also sworn that you will give evidence in accord with all of the other statements that have been tendered on this plea, if called upon to do so.

5 There are [REDACTED] statements in all and, for the purposes of this plea, I have read all of those statements. I have also received a confidential affidavit from Sergeant Stewart Bateson in respect to the material that you have provided, which is Exhibit 15. I have read the contents of that statement and accept what is contained therein. It is clear just from the reading of these statements that they are undoubtedly important and highly relevant statements, relating to a large body of criminal activity. The affidavit material is supportive of that obvious fact. Some of the statements are, of course, more significant than others. The making of these statements have, in fact, caused significant delay in respect of this trial, as the police have been conducting investigations into the activities that you have described in those statements. Those investigations have taken some time as the areas that the statements cover are wide ranging.

6 Detective Sergeant Bateson, the officer-in-charge of this case at the investigative level, has, in oral evidence to this Court, described these statements and your co-operation in the following terms: Firstly, in respect of your past co-operation, he said the [REDACTED] statements were the result of three weeks' hard work. Many meetings were conducted between you and all of the officers. You were totally co-operative as far as the statements were concerned. The statements, he said, were in the overall picture, extensive and comprehensive in terms of the information that was provided by you to the authorities. The statements were considered extremely valuable and although that value varied from statement to statement, overall he said, he considered the statements exceedingly valuable. Secondly, in relation to the extent of your co-operation with authorities, [REDACTED] the statements was also considered very significant. That view is supported by the latter parts of the confidential affidavit. Mr Bateson said that police expect

further results will occur, as a result of the information provided by you. He also indicated that the character of the criminal activity revealed activity of the highest level. It related to numerous organized crime figures, it revealed high scale organised crime, violence and drug dealing. He said the information is of extreme importance to Victoria Police, particularly in relation to the seriousness of the offences and organised crime, as it is notoriously difficult to detect crime at this level. He said it has led to breakthroughs in ongoing investigations. Some of the information you have provided has been corroborated and some has been supported by others in their statements. He agreed that you may well be a future significant witness in relation to matters that are currently charged.

7 When asked by me the specific question, Sergeant Bateson said that the information provided by you to the police was neither higher nor lower than that of Mr Andrews but was of a similar value. I accepted that the material provided by and the evidence that would be given by Mr Andrews was of a high level value to the Victoria Police, the courts and, ultimately thereby, the community. I accept the same in your case.

8 Whilst I do have to and will take this into account in a very significant manner in terms of the sentence that will be imposed upon you, I also have to take into account the circumstances of the offence to which you have pleaded guilty. This was a barbaric, callous, execution murder, conducted entirely for revenge for a past shooting, in which no-one was actually killed. This crime was part of the escalation of the so-called "gangland war" and one that struck true fear and terror into the community. It occurred on a peaceful weekend morning in a community area full of parents and their children, going about some family-orientated sports and social activities.

9 Jason Moran was in his van with a friend and his children and the children of other members of the community. None of those children, or their parents, had any involvement in the gangland activities of Jason Moran, or with you, or any other members of the group with which you were involved. They were just on

44 In relation to mitigation, I have taken into account the following factors:

- first and foremost, your co-operation with the authorities both in the past and as is expected in the future;
- your lack of significant prior criminal history;
- your good history in respect of your family, your early solid work history and the fact that you were a qualified tradesman who is capable of being employed again upon release;
- your prospects of rehabilitation which I determine are reasonable due to the factors relating to the support of your family and your lack of institutionalisation;
- your role in the killing, in that you were not the person who directly did the shooting or conducted the shooting of Jason Moran;
- your plea of guilty, which I accept demonstrates a degree of remorse. I accept that the case against you was not initially strong, that was prior to the confessions and statement of [Mr Andrews] but it was clearly a much stronger case, by the time of your co-operation;
- I take into account not just your evidence that you intend to give in this case, but your extensive, important and effective co-operation relating to the highest level of violent drug-related and organised crime and that, like the case of [Mr McGrath] and [Mr Andrews], public policy aspects of discount are significant due to the nature and type of revelations;
- your future co-operation, there are already four cases pending in which, in all probability, you will be giving evidence;
- the risk to your life, which may well continue for many years or forever;
- the circumstances under which you will serve your sentence.

45 Pursuant to s.5(2)(AB) of the *Sentencing Act* which reads:

"If, in sentencing an offender, a court imposes a less severe sentence than it would otherwise have imposed because of an undertaking by the offender to assist, after sentencing, the law enforcement authorities in the investigation or prosecution of an offence, the court must announce that it is doing so and cause to be noted in the records of the court the fact that the undertaking was given and its details."

46 And s.5(2)(AC) which reads:

"Nothing in sub-s.(2)(AB) requires a court to state the sentence that it would have imposed but for the undertaking that was given."

47 I declare that the sentence I am about to impose on you is less severe than would otherwise have been imposed for the following reasons:

1. Your co-operation to date with the prosecution authorities.
2. Your proposed future co-operation and undertakings to give evidence against co-offenders and others as per the statements which are Exhibits 1 to 14 on this record.

48 I order that such declarations be noted in the records of the Court.

49 Accordingly, taking into account the matters to which I have referred, I sentence you to a term of 23 years' imprisonment for the murder of Jason Moran. I direct that you are to serve a minimum of 12 years' imprisonment before being eligible for parole. I direct that pursuant to s.18(4) of the *Sentencing Act* that you have already served 773 days in custody.
