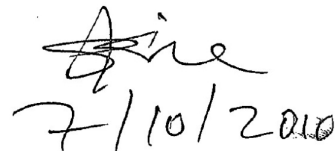


R v Kellie – s98 Armed Robbery with WoundingStatement of Agreed Facts

1. About 2.00 am on Sunday 11th October 2009 the victim in this matter, 1359 was walking from an address in the Randwick area, towards Paddington after attending a friend's house.
2. The victim was slightly to moderately affected by alcohol at this time. The victim walked along Anzac Parade, towards Surry Hills. He made a call to a female adult friend before turning from Anzac Parade into Lang Road, continuing to walk east towards Paddington, whilst still talking on the phone. The victim walked on the right side of the roadway, along the footpath. This path took the victim along the fence line of Centennial Park.
3. At about 2.30 am the victim was walking on Lang Road, approaching the intersection of Mitchell Street. This is a poorly-lit residential area opposite the Park. As the victim passed beneath a large tree, he saw the shadow of a person approach him from his left. The victim heard hurried footsteps and turned in that direction. The victim saw the Accused passing within about 30 centimetres of his left shoulder. The Accused stopped and faced the victim.
4. The Accused began to yell at the victim who was unable to understand what was being said. The victim saw that the male offender was holding a silver-coloured object in his left hand, about ten centimetres in length. The victim believed the object to be a knife. The Accused brought his left hand with the object up quickly past the victim's chest area, then waved the object back and forth aggressively in front of the victim's face and chest. The victim felt threatened and feared for his safety.
5. The victim stepped backwards away from the Accused, against the fence to the Park. The victim had been holding his Apple iPhone in his left hand to his left ear as he was still talking to his female friend when the Accused approached him. The victim then held the phone out towards the Accused. The victim is unsure whether he dropped the phone or the Accused took it directly from his hand. The Accused then ran west down the footpath of Lang Road bordering the Park area in possession of the victim's phone. The victim was shocked and confused about what had occurred. As he walked home he could feel his left arm tingling and experienced numbness in that area.
6. He arrived at his residence and spoke to his parents, who assisted him out of his jacket. The victim's arm was covered in blood from a wound to his left upper arm. This wound comprised a cut that penetrated the skin on the outside of his left arm. The victim found a corresponding cut through the upper left sleeve of his jacket. The victim had not been injured prior to this incident. Police were contacted and attended along with an ambulance. The victim was taken to a nearby hospital for treatment. He received two sutures for the wound, along with a tetanus injection. Police obtained a version from the victim at the hospital and seized his damaged jacket and blood-stained shirts. Police also photographed the victim's injuries.
7. Detectives later contacted the victim and arranged for him to attend the station for a statement. This was completed, with documentation relating to ownership of the phone also provided to police. The offender was described as a male, 25 to 30 years old, about 180cm tall, of a medium build, wearing a dark coloured hooded jacket with centre zip. The hood of this jacket was worn up over the offenders head, disguising his features. He was also wearing a pair of dark coloured pants.

8. On the 17th October 2009 police were within the Centennial Parklands in the vicinity of Busby Ponds, which is the western side of the Park. This area has a walking trail and pathway leading directly to a gate on Lang Road. Police were in this area to conduct a canvass for a separate offence. Police searched dense scrub bordering the walking trail when they discovered the Accused sitting outside a rough campsite set up in front of a drain pipe opening into Busby Pond. The Accused crawled out from this location at the request of police.
9. The Accused was found to be living within the Park area in a self-made campsite next to an overflow pipe for Busby Ponds. The accused had a number of personal items secreted within the pipe. A backpack was located that the Accused identified as his property. Within the backpack police located a phone that the Accused identified as his property, along with coins that the Accused also claimed ownership of. Also within the backpack was an Apple iPhone. The iPhone was seized. Also located with the Accused's property was a black hooded jacket and a pair of dark pants. These clothing items were also seized. Also located and seized were three knives.
10. Police made subsequent enquiries in relation to all items seized. The Apple iPhone serial number was found to be identical to that reported stolen by the victim for this matter, six days earlier. The phone was sent for forensic analysis, along with all clothing and knives. Fingerprints were located on the phone identical to the Accused.
11. IASK submissions for the stolen handset showed a simcard in the name of the Accused being used with the stolen handset eleven hours after the robbery.
12. The Accused was not arrested at this time and would appear to have left Sydney following the 17 October 2009. He was spoken to in the Batemans Bay area on 1 January 2010.
13. During the incident, the victim received a wound to his left upper arm and required sutures. The victim is uncertain as to how the injury was occasioned during the incident.
14. About 7.55 am on 17 January 2010, police were patrolling the vicinity of Aslings Beach, Eden when they observed the Accused seated on a bicycle. He was approached and spoken to. He was arrested, cautioned and taken to Eden Police Station where he was entered into custody and had his rights read pursuant to Part 9 of LEPR.
15. The Accused later participated in an ERISP and made admissions in relation to being involved in an altercation with the victim. He stated that he pushed the victim away, at which time the victim dropped his phone and then left. The Accused said that he picked up the phone and returned to the area of the park in which he was living. He denied having carried or used any weapon or to causing any injuries to the victim. The Accused suggested that the victim may have been injured as a result of coming in contact with a sharp object on the fence during the altercation.

Date: 7<sup>th</sup> October 2010

Crown: 

Defence: 

7/10/2010