

Mr Kelly, you have pleaded guilty to one count of manslaughter.

The victim of your crime was Stewart Williams, a 54-year-old man who was enjoying a social night out in Hobart, as indeed were you. At about 4:45 am, your paths crossed on a staircase in the entrance area of a nightclub. You were ascending the stairs in order to leave the venue, while Dr Williams was going in the opposite direction. You were each accompanied by a companion. For no obvious reason, there was a verbal exchange between the groups as you passed each other on the stairs. It can be seen from the CCTV footage that this exchange was very brief. Dr Williams then continued down the stairs, away from you. You followed him and, although his companion tried to intervene, you told him that you were going to attack him, and then punched him once to the face. The blow landed in the vicinity of his nose. It is clear that it must have been delivered with considerable force. It knocked the victim backwards down the steps and onto the floor. The blow was hard enough to cause multiple facial fractures, particularly around the nasal area. These injuries resulted in heavy and uncontrolled bleeding. Dr Williams was taken to hospital shortly after the incident. Because of the consequences of ongoing blood loss, he was promptly transferred to the intensive care unit but his condition continued to decline. He went into cardiac arrest, which led to brain death, later that day. He then remained on life-support for six days until his family made the decision to remove that support. Death followed soon after.

There was no reason for you to punch this man. You have not asserted that your actions were provoked by him. Even if he did say something to cause offence or anger during the verbal exchange, this could not possibly have justified your actions. The only conclusion that I can reach is that your conduct resulted from drunken bravado. You had been drinking heavily for several hours and must have been extremely intoxicated when you committed this crime. Immediately after the punch, you ran out of the building, where you met some friends. At one point, you can be seen on the CCTV shadowboxing with one of your friends. I infer that these actions were an ongoing manifestation of the aggressive bravado that was associated with your attack on the victim. Having said this, I accept that you did not realise how badly you had injured him. I accept also that, even in your drunken state, you did not consciously think about the potential consequences of your actions, before you punched him. However, you deliberately committed an unlawful assault, and that act caused Dr Williams' death. You are, therefore, responsible for that consequence. The prosecutor has pointed out that about a month before the commission of this crime, you had had a charge relating to an alleged violent act against another dismissed in the Magistrates Court. The point made by the prosecutor is not that you have a history of violence, but rather that you ought to have been aware at the time of commission of this crime of the criminality involved in inflicting violence on another. I suspect that your capacity for such insight was inhibited by the effect of the alcohol you had consumed but this, of course, will not mitigate your moral culpability for this crime. Punching another person in the head with force is a notoriously dangerous act. Doing so when under the influence of alcohol adds to the danger, not least because of the impact of alcohol on the capacity to moderate or judge the degree of force used in such an act, and to weigh the potential consequences of such force. There is also no reason to think that the victim would have expected or contemplated your act and hence would have had the opportunity or capacity to take defensive or anticipatory action. Given the contemporary understanding of the danger of such conduct, while you cannot be sentenced on the basis that you ought to have known that such an act was likely to cause death,

because that would amount to murder, I consider that you do bear a high level of moral culpability for such conduct and its consequence.

I have received an impact statement from Dr Williams' former partner. Dr Williams was the father of three. His oldest son is an adult, and his former partner has the care of the other two children, their children, who are aged 13 and 9. His family is understandably devastated by his death. His passing is now and will continue to cause financial and practical problems for them. His younger children will now grow up without the support and guidance of their father. The impact described in his partner's statement is consistent with the foreseeable and understandable consequences of a crime such as this. You have not only caused the death of this man but you have also permanently and irrevocably affected the lives of his family, and I am sure of many others.

You are 19 years of age and were 18 at the time of this crime. You have no prior convictions. It is obvious from what I have been told by your counsel about your background that when you committed this crime, you were a young man of otherwise good character, with a promising future. You were employed as an apprentice carpenter and I am told that you will be able to return to this employment when able to do so. You are an accomplished sportsman and are well regarded by your family and friends. I accept that you are experiencing genuine and significant remorse for your conduct and its consequences. You have expressed this remorse to the Court and have demonstrated its existence in a practical way by your early plea of guilty and by adjusting your personal habits, including by abstaining from alcohol and social outings. I am satisfied that you have learned a painful lesson. As Dr William's partner has insightfully pointed out, you will live with the consequences of your criminal act for the rest of your life. I do not think that there is any significant risk that you will commit a crime like this again.

Ultimately, however, the sentence in this case must reinforce the sanctity of human life, and take into account the need for general deterrence. It is well known that mindless violence inflicted by drunken offenders on others late at night and in public, far too often results in serious injury or death. Such violence is rightly regarded by the community as a prevalent social problem. Those who would perpetrate such violence must realise that they will incur appropriate punishment, and that such punishment will reflect the consequences of the violence for which they are criminally responsible. It follows that the only suitable sentence in this case is a significant term of imprisonment. I will, however, moderate the head sentence, which I would otherwise have imposed, to take into account the mitigating factors, including the plea of guilty, and I will also provide for your release on parole at the earliest opportunity.

Beau Kelly, you are convicted of the crime to which you have pleaded guilty and sentenced to imprisonment for a term of 5 years. That sentence will commence on 3 April 2020. I order that you not be eligible for parole until you have served one half of the sentence.