

Mr Fitzpatrick, you have pleaded guilty to charges of aggravated burglary, assault and unlawfully injuring property. These charges relate to a home invasion in August 2017.

You had far too much to drink that day. You told the police that you had had about 20 cans of beer. At some stage you were informed that a man named Cooper had abused and threatened your mother, and had demanded money from her. You went to Mr Cooper's home with a number of other men. He answered a knock on the door, and was immediately struck to the head, and then repeatedly hit. Glass windows, a wire screen door and a number of items of crockery and glassware were damaged. Mr Cooper was taken to a hospital by ambulance. His partner was so terrified that she hid behind the washing machine, but she was eventually found by the police. The attack on Mr Cooper and his property was a joint one by you and your companions. You are therefore criminally responsible for the violence and damage inflicted by the others. You are guilty of the crime of aggravated burglary because you entered Mr Cooper's home with the intention that you or your companions would assault him.

Mr Cooper suffered nasal fractures, a badly split upper lip, a fractured vertebra, a wound about 4 or 5 centimetres long to his forehead, other cuts, bruises and abrasions. He did not provide a victim impact statement. It must have been a terrifying experience for him.

You were 30 years old at the time, and you are now 33. You have a lot of minor prior convictions. They include convictions for assaults committed in 2009 and 2011. You had a rough childhood. By the age of 13 you were drinking alcohol and using intravenous drugs. According to a report that I have received from a probation officer, you struggled with serious alcohol and drug abuse issues from your early teens, but managed to abstain from time to time. Before the day in question you had stopped using drugs and reduced your alcohol consumption significantly. You lapsed on the day in question, drank a lot of beer, and also used methylamphetamine. You acknowledge now that you should never have visited Mr Cooper. You have been clean from drugs ever since, and you are drinking very little. For the first time in your life, you have a full-time job. Since late last year you have been working as a driver for a company that farms and sells chickens, with the result that your life is now better than it has ever been.

The crimes that you committed were serious enough for imprisonment to be considered as an appropriate sentence. When this case came before me in Burnie in February, I thought that a home detention order might be more appropriate, so that you could keep your job, and so that your life could keep heading in the right direction. However the probation officer has reported that a home detention order would not be appropriate because your job requires you to travel unpredictably and to go to areas where electronic monitoring would not work because of problems with weak signal strength, or lack of any signal at all. A community service order would not be appropriate at the moment because the COVID-19 pandemic has led to community service arrangements being suspended. I am not going to send you to prison because of the steps you have taken to change your life. That really leaves me with two sentencing options – a suspended sentence or a fine. I am going to impose both. I notice that you have been paying off old fines totalling about \$11,000, but I am going to add to that burden. I will take into account the fact that you spent 11 days in custody as a result of these charges, including 8 days after you were arrested for breach of a curfew when there was no curfew. I

will impose a sentence that is backdated by 11 days to 11 April, and suspend the unserved balance of that sentence.

I convict you and sentence you to 9 months' imprisonment with effect from 11 April 2020. I suspend the unserved balance of that sentence on condition that you commit no offence punishable by imprisonment for a period of 12 months from today. I also order you to pay a fine of \$1,000. That fine must be paid within 28 days, subject to any arrangements that you make with the Monetary Penalties Enforcement Unit.