

STATE OF TASMANIA v JAI LAWRENCE RAINBIRD
COMMENTS ON PASSING SENTENCE

3 JULY 2020
BRETT J

Mr Rainbird, I am dealing with you for two separate and unrelated courses of offending conduct. The first occurred on 17 January 2019, and the second on 11 January 2020.

In respect of 17 January 2019, you have pleaded guilty to two counts of assault and two counts of unlawfully injuring property. The relevant circumstances are these. Police were searching for you because of alleged family violence offences which, it was believed, had been committed by you against your former partner. The two complainants in respect of the assaults are police officers who were part of the search. They were together in their stationary police vehicle, blocking a road upon which you were travelling. As you approached their vehicle, you stopped momentarily approximately 20 m away, and then accelerated and collided with the driver's side front bull bar of the vehicle. You did this in order to force your way past the vehicle. Neither officer sustained any injury or described any impact from the collision. However, the act of deliberately colliding with the stationary vehicle, knowing the officers were inside, constituted an assault on each of them.

The offences relating to the damaged property were committed about 45 minutes later. After the collision with the police vehicle, police chased you for a short time but quickly called off the pursuit. You are not charged with offences relating to this driving, and you will not be punished for it, but the police effort to apprehend you, and your effort to avoid apprehension, does provide the context in which you committed all of these offences, including the unlawful injury to property. You damaged the property when you drove through some farms. At one property, you crashed through a fence and gate causing damage to both. A short time later, you drove through some paddocks, damaging seven dividing fences as you did so.

Although there was no personal injury caused to the police officers by the collision, you did cause substantial incidental damage to the police vehicle. The cost of repair is estimated at \$5,303.77. The damage to the gate and fence is estimated at \$500 and to the seven fences, \$7,796.80.

The offending in January 2020 is considerably more serious. You have pleaded guilty to assaulting your then partner. The crime occurred on 11 January 2020. You and the complainant had been in a relationship since September 2019. She was eight weeks pregnant with your child at the time that you committed this crime.

The relevant events occurred on a Saturday morning. The complainant was experiencing morning sickness and you were making fun of her. She telephoned her mother and spoke about you. You overheard the conversation and became angry. There was a brief argument, and then you asserted that the complainant was scared of you. She responded by saying that she was not scared and you told her that she should be. You then punched her to the head using both hands. You punched her twice using moderate force. She was sitting on a couch when you did this. She tried to calm you but you told her that you did not love her and called her a slut. She then tried to get away from you but you came towards her with a raised fist and punched her with your right hand. The punch landed forcefully and knocked her to the floor. She stayed on the floor because she was scared that if she got up, you would hit her again. You then picked up the phone, which was still

connected to the complainant's mother and made a comment to the effect of "you're next". However, her mother, who had heard what had happened, had already disconnected the call and telephoned police. You then left the premises. You did so without checking on the welfare of the complainant.

The complainant then ran to a neighbour's unit to seek assistance. In her desperation to escape, she went there unclothed, and had to be given clothes by the neighbour. She was taken to hospital. Her injuries included bruising to both eyes and cuts and swelling to her mouth.

Clearly, the objective seriousness of this crime and your moral culpability for it are very high. You perpetrated a brutal and cruel assault on your partner. She was vulnerable because of her pregnancy. You attacked her head with force, and this was extremely dangerous. After assaulting her, you showed no compassion or concern but left her alone, scared and injured. Your actions constituted family violence of a most serious kind, and a significant breach of the trust inherent in your relationship. The breach of trust and its effect on the complainant is described by her in her impact statement. It is clear that your actions have had a profound emotional effect on her. Her physical injuries have affected her employment, and she has found your conduct in assaulting and verbally abusing her and then leaving her lying on the floor, to be, in her words confusing and hurtful. The impact described by the complainant is consistent with what would reasonably be expected as a result of family violence of this nature. I accept that there has been a significant impact as described by her in the statement.

At the time that you committed this crime, you were on bail in respect of the charges arising from the events of January 2019. You were also subject to a suspended sentence for a term of five months and two weeks, which had been imposed as part of a sentence on 5 September 2019, for various offences which included a number of family violence offences which related to your former partner, not the complainant in respect of the 2020 matter. Some of these had been committed around the time of the events in January 2019. The prosecution has applied for the activation of that sentence. You acknowledge the breach and your counsel has not submitted that it would be unjust to activate the sentence. I am of a similar opinion. Accordingly, I am required to activate the sentence and will do so.

You are 31 years of age. You suffered significant abuse and neglect in your childhood. In your younger years, this was at the hands of your father, who was involved in trafficking and using illicit drugs. You were exposed to drug use at a young age and it seems that you have had a serious drug problem all of your life.

You also have a concerning criminal history. It commenced when you were 17 years of age. Since then, you have committed a wide variety of offences, including some involving violence. In 2011, you were sentenced by this Court to four years' imprisonment for a serious crime of violence. You have been subsequently sentenced to imprisonment on a number of occasions, including a lengthy term in 2017. The sentence imposed on 5 September 2019 included not only the suspended sentence but a further term of actual custody. As I have already indicated this sentence was imposed for offending which included a number of family violence offences. You were released from custody a few months before committing the assault on your partner in January 2020. Your counsel tells me that after the imprisonment in 2017, you made a real effort to get on top of your

drug problem but relapsed after the death of a close friend in October 2018. You have been in the grip of your drug problem ever since.

Your counsel asserts that you are extremely remorseful and ashamed in respect of the assault on your partner in January 2020. You acknowledge the physical and emotional hurt that you have caused her and you are rightly concerned about any potential impact on your unborn child. I am told that your remorse has prompted you to seek assistance, while you have been in custody, in relation to your anger and aggression and your grief over your friend's suicide. You claim to have committed to making an effort to improve your life and your conduct. I accept that your plea of guilty provides some evidence supporting this claim. You should also receive credit for the fact that the plea will spare the complainant from having to give evidence and avoid the unnecessary use of valuable court time.

It is clear that all of these crimes warrant the imposition of a sentence of imprisonment. In fixing the length of the sentences, it will be necessary to keep in mind the principles of totality, as well as the need to encourage your rehabilitation. In relation to parole, despite your significant criminal history, and the fact that you committed the assault while on bail and subject to a suspended sentence, I agree with your counsel that it is appropriate to provide for your release on parole after serving part of your sentence. I will fix a non-parole period which, in my view, is the minimum time that you should spend in custody having regard to the various sentencing factors.

The orders I make are as follows:

- 1 You are convicted of the crimes to which you have pleaded guilty.
- 2 The suspended sentence of five months and two weeks imposed by the Magistrates Court on 5 September 2019 is activated. It will be backdated to be served from the time that you went into custody, which is 11 January 2020. You will not be eligible for parole until you have served four months of that sentence.
- 3 For the crimes committed on 17 January 2019, you are sentenced to a global term of 10 months' imprisonment, which will be served cumulatively upon the activated suspended sentence. I order that you not be eligible for parole until you have served six months of that sentence.
- 4 In relation to counts 1 and 2, on the indictment relating to those crimes, I make a compensation order in favour of the Department of Police, Fire and Emergency Management in the sum of \$5,303.77.
- 5 In relation to count 3, I make a compensation order in favour of Kerry Mann in a sum to be assessed and I adjourn that assessment sine die.
- 6 In relation to count 4, I make a compensation order in favour of Leo Tribolet in a sum to be assessed and I adjourn that assessment sine die.

- 7 For the crime of assault committed on 11 January 2020, you are sentenced to imprisonment for two years, which will be served cumulatively upon the 10 month sentence imposed for the 2019 crimes. You will not be eligible for parole until you have served 14 months of that sentence.
- 8 Pursuant to s 13A of the *Family Violence Act*, I direct that the crime of assault committed on 11 January 2020 be recorded on your criminal record as a family violence offence.
- 9 For the purposes of s 92A(3) of the *Sentencing Act*, I specify that:
- (a) The total term of imprisonment which you are liable to serve in respect of all of the above sentences is three years, three months and two weeks commencing on 11 January 2020.
 - (b) The total period that you must serve before you become eligible for parole is the aggregate of the non-parole periods relating to each of the said sentences, which is a total cumulative period of two years.