

STATE OF TASMANIA v DANIEL CRAIG FLEMING
COMMENTS ON PASSING SENTENCE

31 AUGUST 2020
ESTCOURT J

The defendant, Daniel Fleming has pleaded guilty to one count of wounding.

The complainant is the defendant's mother. At the time of the offence, the defendant was residing with her and his father in Gagebrook.

At approximately 6.45am, on Sunday 21 July 2019, police were called to attend the property in relation to a reported wounding. Police attended the address and saw the complainant sitting in the driveway of the residence in a distressed state.

The complainant stated to police that her son had stabbed her and locked her outside. The complainant further stated that a verbal argument had taken place between the pair whilst she was in the kitchen making a coffee. She had moved back into the living room area where her son had stabbed her to the back of her left arm with a pair of scissors.

Police observed a small puncture wound approximately two centimetres long on the triceps of the complainant's left arm and a small amount of blood flowing from it. The complainant was treated by attending ambulance officers.

The defendant was placed under arrest and participated in a video recorded interview in which he stated that he and the complainant had argued and yelled at each other, and he threw the scissors at the complainant and they hit her in the arm. He said he was not aiming for the complainant and in fact, meant to miss her.

At the conclusion of the interview the defendant was charged. The complainant did not receive any lasting injuries, she declined to make a statement to police and I have no victim impact statement.

The Crown asserts that the defendant recklessly wounded the complainant.

The defendant is 24 years of age. He currently lives with his parents and two of his siblings in Gagebrook. He was raised in Tasmania, one of six children to his parents' relationship. However he was removed from his parents' care when he was six years old.

His mother has diagnosed schizophrenia which compromised her ability to care for the children. They were placed in foster care, with the defendant being separated from two of his siblings. He remained in foster care until he turned sixteen. He then selected to return to reside with his father who had temporarily separated from his mother. This offending occurred the defendant had recently returned to reside with his parents.

The defendant does not attempt to justify his conduct. I am told he was sleeping on the couch in the living area and his mother was being noisy and disruptive. I am told that his relationship with his mother was complex. His mother was not receiving treatment for her mental health condition and the defendant found that this was causing stress and frustration. He considered that his mother was self-medicating with cannabis and alcohol and she was exacerbating her condition.

He instructs that he was particularly frustrated on this morning because of the noise. He accepts that he reacted inappropriately. He picked up the scissors, which was the first thing to hand, and threw them in her direction.

The defendant is remorseful and his cooperation with police and early plea of guilty would tend to confirm that. I am instructed that he is devastated that he caused harm to his mother and has apologised to her on many occasions. He is disappointed that he acted in the way that he did.

As I have said, he pleaded guilty at an early stage and he is entitled to a discount on an otherwise appropriate sentence for having done so. He has no relevant prior convictions.

Wounding is a serious crime even when committed recklessly, because of the risk of serious injury and the need to deter others from such conduct. This case however must be regarded very much as at the lower end of the scale and involved conduct which appears to be out of character for the defendant.

The defendant is convicted of wounding and sentenced to 4 months' imprisonment, which sentence I wholly suspend on condition that he commit no offence punishable by imprisonment for a period of 12 months.