

Mr Black, you have pleaded guilty to one count of committing an unlawful act intended to cause bodily harm, contrary to s 170 of the *Criminal Code*.

The crime was committed on 25 January 2020. You and the complainant did not know each other. At about 6am, you were both part of a group that had just left a nightclub after it closed. A fight started when the complainant intervened in a disagreement between two males who were in your group, and a female. Initially, you were not involved in the fight, but when the complainant got to his feet after having been knocked to the ground, you attacked him. You punched him in the head with your fist and pulled him to the ground. When he was on the ground, you stomped on his head and upper body with your right foot three times before others intervened and directed you away. Almost immediately, you pushed past them and stomped on the complainant's head and upper body area again. He was on the ground and stationary when you did this. You then kicked him to the head with your foot, putting your full weight behind the kick. I have watched the CCTV recording of these events. Your physical attack on this man is brutal and unrestrained. The impact of your kick on his head is particularly sickening. At the time that you do this, he is prone on the ground, and indeed appears to be unconscious. He clearly does not pose any threat to you whatsoever.

It appears that after this, the complainant was also attacked by another member of your group, who punched and kicked him numerous times. Eventually, he was taken by ambulance to hospital. He suffered a number of injuries as a result of the combined attacks, including swelling, bruising, abrasions and lacerations to his face and head, a missing tooth and a broken nose. He has provided a comprehensive impact statement, which sets out the ongoing physical and psychological consequences of his injuries. These are significant and include concussion and associated cognitive symptoms. The ongoing effects of the injuries have resulted in substantial financial loss. He has suffered severe and ongoing psychological trauma and has commenced psychological counselling. The point is made by your counsel and accepted by the prosecution, that it is not possible to attribute any particular injury to an individual attack. You are not criminally responsible and will not be punished for the actions of the other man. However, it is accepted by your plea that your actions were intended to disable this man or cause grievous bodily harm to him, and that they actually caused some bodily harm. Further, your conduct was capable of causing harm to the extent and magnitude of the injuries suffered by the complainant as a result of the entire incident.

You were 19 years of age when you committed the crime and are now 20. You suffered neglect and instability in your childhood. Your criminal history commenced when you were 10 years of age. You were cautioned for assault at that age. However, although you have continued to offend since then, you had no subsequent convictions for acts of violence until you were convicted of robbery, which was committed when you were 17. You had stolen property from a retail store and punched a staff member who chased you. In November 2019, you were convicted of the summary offences of disorderly conduct, and using abusive language to and resisting a police officer.

Your counsel claims that you are genuinely remorseful in respect of your actions. I accept that remorse is evidenced by your plea of guilty and the fact that you have not applied for bail since being remanded in custody over this matter. You have been in custody since February.

The objective seriousness of your criminal conduct is very high. It is particularly concerning that you attacked the head of this man by stomping him and then kicking him to the head in a completely unrestrained way, while he was prone on the ground. Although he, in actual fact, did suffer serious injury, your attack could easily have had far more serious, even lethal consequences. Brutal and vicious violence of this nature perpetrated in public, usually after heavy alcohol consumption is, in the experience of the Court a prevalent problem, which is of considerable concern to the community. Far too often, such violence leads to serious injury and even death. The primary sentencing considerations are general deterrence and denunciation of such conduct, and this means that a significant sentence of imprisonment is inevitable. However, having regard to your age, remorse and plea of guilty, I will suspend part of the sentence, and provide for the opportunity of early release on parole.

Hayden Black, you are convicted of the crime to which you have pleaded guilty and sentenced to 2 years and 9 months' imprisonment, which will be backdated to 24 February 2020. The last 12 months of the sentence will be suspended for a period of two years, which will be calculated from the date of your actual release from prison. The condition of suspension is that you are not to commit another offence punishable by imprisonment during that period. I order that you not be eligible for parole until you have served 12 months in prison.