

The defendant Justin Moore has been found guilty by a jury of wounding. It is for me to find the facts for sentence consistently with the verdict.

At trial, the defendant admitted that he caused the wounds, but he and the complainant gave different versions of the circumstances in which that occurred.

On the afternoon of 26 October 2018, by chance, the defendant encountered the complainant, against whom he had a grievance. The encounter was in the car park of Bunnings Glenorchy. It was Show Day and there were children around.

The defendant followed the complainant who was seated in the passenger seat of his partner's car with her two young children. The defendant goaded the complainant into a fight in which I am satisfied beyond any doubt he was the aggressor. The defendant had a weapon in his hand, largely concealed and he stabbed the complainant seven times. The wounds were not serious though, and were treated in the Royal Hobart Hospital outpatients section. The complainant has however suffered some psychological impacts.

It follows from the verdict that the jury rejected the defendant's claim that the force he applied to the complainant was justified by the defence of himself or another or, alternatively, that the force he used was excessive.

I am satisfied beyond reasonable doubt that wounding was the defendant's intent. I reject his claim that he was unconscious of an object capable of being used as a weapon in his hand. Whatever that object was, and however he may have been in possession of it before the fight, it would have taken some manipulation to have held it in such a way to be capable of inflicting the wounds, inflicted as they were by a roundhouse punching action. His criminal culpability would be scarcely less, however, if his actions had been merely reckless. The degree of recklessness that would have been involved would have been extreme given that he stabbed the complainant seven times.

The defendant is now aged 35. He is in a settled and stable relationship with support from his mother with whom he and his partner reside.

The defendant was under emotional stress at the time of this offending as his partner had just suffered a miscarriage and had required surgery. Indeed their reason for being at Bunnings was to use part of a care package with which they had been provided as a consequence of their loss.

He has some relevant prior convictions for summary offences, but some of them were as a youth, and others of marginal relevance.

Intentional wounding is a serious crime which can, of course, overlap with the more serious crime of committing an unlawful act intended to cause bodily harm, for which, of course, there is a recognised tariff of three to seven years' imprisonment.

Aggravating features of the present case are that the weapon was concealed and that the offence occurred in a busy public place and in the presence of young children.

There are no mitigating circumstances and the defendant is not entitled to any discount on sentence. He did not exhibit remorse after the offending, leaving the scene and disposing of the weapon.

I have had the benefit of a pre-sentence report and the defendant is assessed as suitable for home detention and for community service.

The defendant is convicted of wounding and is sentenced to a period of 18 months' home detention. I also make a community correction order for an operational period of three years, and order that within that period he undertake 210 hours of community service.

The terms of the home detention order are as follow:

All of the core conditions contained in s42AD(1) of Part 5A of the *Sentencing Act* 1997 are imposed, including s42AD(1)(g).

Pursuant to s42AD(1)(g) and (h), the following conditions are included in the order:

Mr Moore

- You must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device.
- During the period that you are required to submit to electronic monitoring:
 - (a) you must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
 - (b) you must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
 - (c) you must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, including in relation to the installation, attachment or operation of a device, or a system, used for the purposes of electronic monitoring by:
 - i a police officer;
 - ii a probation officer or proscribed officer; or
 - iii another person whose functions involve the installation or operation of a device, or a system, used for the purposes of electronic monitoring.
- You must, during the operational period of the order, remain at [home detention address] all times unless approved by a probation officer.
- By 10am tomorrow morning, you must attend the Community Corrections office at Highfield House for induction onto this order.
- You must, during the operational period of the order, maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times.
- You must submit to the supervision of a Community Corrections officer as required by that officer.
- You must not, during the operational period of the order, take any illicit or prohibited substances. Illicit and prohibited substances include:
 - (a) Any controlled drug as defined by the *Misuse of Drugs Act* 2001

- (b) Any medication containing an Opiate, Benzodiazepine, Bupropion, Hydrochloride or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication.