

STATE OF TASMANIA v JOSHUA NOEL FRANK PARKER 25 NOVEMBER 2020
COMMENTS ON PASSING SENTENCE **ESTCOURT J**

The defendant, Joshua Noel Frank Parker, has pleaded guilty to a charge of creating a nuisance contrary to s 141(1) of the *Criminal Code* by pouring petrol inside a house, and committing an unlawful act intended to cause bodily harm contrary to s 170(1)(g) of the Code by putting an inflammable substance in a place to avoid arrest. I have also agreed to deal with a number of summary offences on complaint 51316/2020, namely, seven breaches of a family violence order, one charge of emotional intimidation and one charge of destroying property.

The defendant was in a relationship with the complainant for a period of four years. They have two children together, who I shall call H and M. The complainant also has an older daughter from a previous relationship.

The defendant and the complainant separated in around 2018.

A family violence order was imposed on the defendant on 19 December 2019 with conditions that the defendant was not to contact the complainant and was not to attend her residence.

At approximately 5pm on Friday, 3 April 2020, the defendant attended at the complainant's home in breach of the family violence order. The complainant asked him why he was there, and he replied that he was there to see his children. That conduct constitutes charges 3 and 5 on the complaint to which I have referred.

The complainant did not want to upset her children by sending the defendant away so she allowed him to stay and he slept the night on the couch.

At around 5:30pm the following day the defendant became angry and started yelling. He started calling the complainant a "*slut*" and a "*whore*" in front of the children. The complainant sat in the hallway and cried, as did the children. That constitutes charge 7 on the complaint.

The defendant's daughter M went into the bedroom with the defendant and started watching a movie. The defendant stood in the hallway yelling and threatening the complainant. As she became more scared she left the house and closed the screen door behind her. Whilst she was outside she begged the defendant to give M to her. The defendant yelled at her that she was selfish and that she was not "*winning this one*". At one point the defendant said "*if you don't shut up, I'll make you shut up*". That conduct constitutes count 10 on the complaint.

The defendant exited the house and stood on the front steps. He said "*I've got the petrol in the bedroom and we are all going to burn in this house*". He then went back inside the house. That conduct constitutes counts 2 and 9 on the complaint,

The complainant stood at the front door and pleaded with the defendant to let her daughter come out. The defendant continued yelling and said "*better hope the police don't come, this is the last time*". That conduct constitutes count 11 on the complaint.

M was able to get to the front door without the defendant noticing, but the screen door made a loud bang as it closed behind her. The complainant grabbed M and her son H, and ran down the road. The defendant stood on the front step and yelled after her before going back inside. The complainant went to her sister's house. Members of Tasmania Police attended, and she told them that only the defendant remained in the house.

Sergeant Poke attended and identified himself to the defendant through the door. The defendant said that he had a can of petrol with him and he was pouring it down the hallway of the house. Sergeant Poke could hear the splashing of liquid through the front door. The defendant said *"If you come in, I'll fuckin' set it on fire"*.

The defendant opened the front door and threw petrol through the screen door onto the porch. Sergeant Poke was standing only about 1.5 metres from the front door. The defendant stated again that if police tried to come into the house he would *"light it up"*. The defendant then slammed the front door.

Sergeant Poke instructed the other officers present to withdraw for safety reasons, and a cordon was set up around the property and police negotiators were brought in.

Negotiators arrived and during negotiations, the defendant indicated that he had armed himself with a knife, had been drinking, and had taken a quantity of medication.

Negotiations continued for approximately 100 minutes, during which time the Tasmania Fire Service and Ambulance Tasmania were in attendance. Approximately nine members of Tasmania Police were also in attendance. The street was blocked off, meaning other people were prevented from freely accessing the road and area.

Tasmania Police were able to gain entry to the house when the substances the defendant had taken began to have an effect on his level of consciousness. He was removed from the house. The floor inside the house was wet and there was a strong smell of petrol. There were approximately 5 empty blister packets of anti-psychotic medication located nearby.

The defendant was assessed by attending paramedics before being arrested and taken into custody. However, he was later released on medical grounds and hospitalised for various medical conditions.

On Thursday, 9 April, he was discharged from the North West Regional Hospital and then arrested by police. He has remained in custody since that time.

I have read a victim impact statement from both Sergeant Poke and the complainant. As might be expected they were both highly traumatised by the event. The complainant was unable to live in the house thereafter and moved out. Sergeant Poke thought he was going to die.

The defendant is 47 years old. He has 3 children, as noted already, two with the complainant, and an adult child to a previous relationship.

He has a difficult relationship with the adult child to a previous relationship, and he attributes this to him being in and out of custody during that child's formative years.

He has no relationship to speak of with either of his parents; he has never spoken to his father, and while he has previously tried to re-establish a connection with his mother, he no longer has any contact with her.

The fractured relationship the defendant has with his mother is largely due to her relationship with the defendant's stepfather who sexually assaulted the defendant during his youth.

The defendant had many violent altercations with his stepfather, culminating in the defendant being charged with assault and committing an act intended to cause bodily harm. His stepfather

being the complainant. The defendant's life has been marred with family violence, abuse and alcohol abuse from a young age.

Despite his traumatic upbringing, he completed years 11 and 12 in school. However, during his early teenage years, the he abused alcohol, which he believes shaped his life and explains many of his earlier prior matters.

Approximately 12 years ago, he found employment at an abattoir in Devonport, where he worked there for 8 years, and later he worked for Huon Aquaculture. He has a good industrial record.

In 2019 the defendant sought drug and alcohol counselling.

In the weeks prior to this offending the defendant had been suffering from worsening mental health. His moods were low, and he left work temporarily due to a significant low that led to an emotional crisis.

He attempted to see a psychologist, but was unable to because of COVID-19 uncertainties at that particular date. He then commenced using illicit substances after having abstained from their use for some time. On the day of the offending he was contemplating suicide.

These are serious charges, aggravated in a number of them by the presence of children. In particular, the crime of doing an act intended to cause grievous bodily harm contrary to, s 170, is a crime, which, on its own, ordinarily carries a penalty within the range of three to seven years' imprisonment. That is not always the case and, notwithstanding the defendant's relevant prior convictions, I do not think that is the case here, in the case of that particular crime.

The crime of committing a nuisance is also extremely serious, involving as it did threats of danger to the person of police officers attending, and to the public and neighbours nearby.

I take into account the defendant's mental state at the time of this offending and his plea of guilty, for which I have made a discount on sentence. I note his desire to turn his life around when he is released from prison, and I note the efforts he has already made in that regard.

The defendant is convicted of all of the offences to which he has pleaded guilty. I record the summary offences on the complaint to which I have referred, as family violence offences. I impose a single sentence of four years' imprisonment backdated to 9 April 2020. However, in view of the defendant's desire to turn his life around, I suspend the last 12 months of that sentence on condition he defendant commit no offence punishable by imprisonment for a period of two years. The defendant is not to be eligible for parole until he has served half of the operative period of the sentence, that is to say, after he has served 18 months' imprisonment backdated to 9 April 2020.

I extend the family violence order made against the defendant on 19 December 2019 for a period of two years from that date.

I make a compensation order in favour of Housing Choices Tasmania. The application is adjourned for compensation to be assessed to a date to be fixed.