

STATE OF TASMANIA v EMANETTE KRISTIN LEEDHAM 3 DECEMBER 2020
COMMENTS ON PASSING SENTENCE GEASON J

Ms Leedham you have pleaded guilty to wounding contrary to section 172 of the *Criminal Code*.

Your offending occurred on 6 January 2020 during an argument with your partner. Initially he threw a plastic bottle of water at you and it struck you on the lip, causing it to bleed.

You got out of bed and took up a pocketknife. You opened that knife, and when he walked past you, in the confined space of the bedroom which could not be navigated without touching you, you stabbed him with that knife. He pushed you away and went to the kitchen. You followed him to the kitchen and told him to call an ambulance and you attempted to assist him with first-aid.

As a result of the incident he received a deep laceration to his left hand which required 18 stitches, and a small number of stitches to a wound on the back of his right upper arm.

You hid the knife after this incident, suggesting a consciousness of guilt for what you had done, but in any event shortly after when police arrived, you admitted to them that you had stabbed him. You were arrested.

You were interviewed by police.

You told police that you had lived with the complainant since August 2019 and that on this particular morning he was in a bad mood. You said he began calling you names and threw a bottle of water at you. You claimed to police that as he went to go past you, you pulled out the pocketknife believing he was going to attack you.

You told them that he had threatened to hit you before but that he has never done so.

You claimed you did not know what you were thinking when you acted but thought that you were trying to stop him from hitting you and overreacted.

You told police that your former husband used to attack you and you believed you that you had overreacted in the situation that had presented on this particular morning.

Police family violence orders were issued effective from the date of your offending.

I have received a victim impact statement which indicates the relationship you have with the complainant is a good one, and in which he acknowledges that the argument between you got out of hand that morning. He also attributes your reaction to previous domestic violence which you had endured in another relationship.

His injury has healed and there is no residual disability associated with it.

It is intended that your relationship should continue.

Though I do not have any psychiatric evidence before me, it seems to be the position, as submitted by your counsel, that this offending is explicable on the basis of your past

experiences in another relationship, making you sensitive to perceived risk in situations of conflict. Your history of prior convictions indicates that violence is not characteristic for you. Your explanation is not implausible and I accept it as a reasonable explanation for this impulsive act.

I have regard to your personal circumstances generally, as outlined in Mr Scott's plea, and in a report that I have received.

You appear before me with a number of prior convictions, including convictions for offences of dishonesty, driving offences, including drug-related driving offences but, as I say, ~~I can see~~ no offences involving the infliction of violence.

In my view the episode the subject of this charge is out of character.

You are described as genuinely remorseful for your actions and you have pleaded guilty.

You were apparently using methylamphetamine regularly during this period, and I discern from the steps you have taken since an acknowledgment that that use has contributed to your emotional state on that day and contributed to your actions.

It is stated in the report that I have received that you have you have stopped using illegal drugs, and have engaged with drug and alcohol services in order to receive support to deal with this problem.

You have maintained fortnightly contact with a counsellor for that purpose, and have continued regular engagement with your general practitioner in relation to mental health issues. I note, too, that you are presently on the waiting list to engage with a psychologist through Relationships Australia.

The sentence I impose should reflect the fact that you are taking active steps towards your rehabilitation and general self-improvement.

Notwithstanding those matters your action constitutes an unacceptable response to the situation you were in. It was an act of serious domestic violence and carried the risk of grave injury.

Frequently this Court has emphasised the need to impose penalties which deter such behaviour.

I consider that a term of imprisonment is an appropriate sentencing response to serious acts of family violence such as this, to make it clear that such violence will always attract a harsh sentence.

In the circumstances, and noting the absence of prior convictions for offending involving violence, the impulsive nature of your offending, but noting that the injuries were relatively serious, I have decided that a sentence of ten months' imprisonment is appropriate.

Having regard to your circumstances, noting the active steps you have taken towards your rehabilitation, including your engagement with alcohol and drug services and your steps to procure treatment for mental health issues, I have determined that I can suspend the operation of that sentence without frustrating the sentencing objectives, in particular the need to punish you and to deter others. I consider that will assist in your rehabilitation. I suspend that sentence

on the condition that you must not commit an offence punishable by imprisonment for a period of two years.

I also make a community corrections order for the same period, two years, commencing today. That order is subject to the core conditions referred to in the *Sentencing Act* and the further special condition that you must submit to the supervision of a probation officer as required by that probation officer, including as to drug and alcohol treatment and psychological treatment.

Now, the effect of the order I have made Ms Leedham is this: You have a sentence of 10 months' imprisonment hanging over you. It is suspended. Commit another offence for which a term of imprisonment may be imposed, and that sentence may well be activated and you will have to serve it. I am also making a community corrections order and you will engage with the probation services in relation to that, and you will obey the directions made to you by the probation officer; any such reasonable direction, but, in particular, I emphasise directions pertaining to alcohol and drug abuse, and obtaining psychological treatment.

I make the order recording this matter as a family violence offence for the purposes of s 13A the *Family Violence Act*.