

Timothy Double, you plead guilty to *Criminal Code* assault and to unlawfully injuring property. I also agreed to deal with your plea of guilty to the summary charge of common assault. The offences were all committed on 4 March 2020. You were aged 36. The assaults were committed against Tiffanyrose and Nathan Cousins, the children of your partner Carolanne Fisher. Tiffanyrose was then aged 10 and Nathan 18. You had been living with Ms Fisher and her children for about three years. You and Ms Fisher were engaged to be married.

Both children have significant disabilities. Tiffanyrose has several physical and mental disabilities including autism, epilepsy, squint eye and developmental delays. Nathan has autism, dyslexia, developmental delays and depression. On this day you drove your partner and Tiffanyrose to buy fish and chips to bring home. Tiffanyrose became angry and agitated when she was not allowed to start eating in the car. She repeatedly kicked the back of your seat. After arriving home she continued to be angry and misbehave. After telling her that you would break her iPad if she did not stop carrying on, you broke the device in half and threw it on the floor. You then, while she was sitting on the couch, grabbed her with both your hands around her throat. You squeezed her neck for about 15 to 20 seconds. Your partner told you to stop. As you stepped away Tiffanyrose said something else to you. You slapped her once to her face with your right hand.

As you attempted to remove yourself, Nathan stepped in the way. He called you a name and pushed you against the wall. You punched him once to the back of the head with a closed fist.

These matters came to light as a result of things which was said by Tiffanyrose at her school the following day and some red marks on her neck were noticed under her scarf. You were arrested and interviewed. You admitted much of what had taken place although tended to downplay some aspects of it.

You immediately moved out of the home. You and Ms Fisher remain on friendly terms, although your plans to be married are on hold. It is not asserted that either Tiffanyrose or Nathan were injured, apart from temporary red marks which quickly resolved. Ms Fisher prepared a victim impact statement in which she says that both of them miss you and ask to continue to see you. Nothing is said about any adverse psychological consequences.

Even so, these assaults are serious for obvious reasons. Choking is a particularly hazardous form of assault. It carries a significant risk of serious injury and death. The choking which you inflicted was not momentary or fleeting and it is very fortunate that nothing more serious eventuated. Both Tiffanyrose and Nathan were vulnerable by reason of their disabilities and, especially in the case of Tiffanyrose, by her age. You breached the trust you owed both of them by having acted in a parental role. They were entitled to feel safe from attack in their own home. The incident must have been frightening for them both. A sentence is required to ensure that there is a strong incentive for you to not resort to violence in circumstances of stress. Others must also understand that resort to violence carries consequences.

For those reasons, I intend to impose a term of imprisonment. However for the reasons I am about to explain I will reduce the length of the term I would otherwise have imposed, and not require that you serve any time in prison, provided that you comply with the conditions of the order, especially that you do not commit another offence.

You also have a learning disability which was diagnosed as a child. You were removed from the care of your parents when you were young for reasons which are unclear. The author of the pre-sentence report suggested, in effect, that there were common physical altercations in your family home and that your father was quick to anger. You managed to complete education to year 12 but only with specialised assistance from teaching staff. You held stable employment as a warehouse assistant for 15 years until you were made redundant in 2006. That was devastating for you and you have not held employment since. I have been given a report from Dr Georgina O'Donnell, a forensic psychologist. I also ordered a pre-sentence report. Dr O'Donnell investigated your educational and health records. She concludes that you have a chronic learning disability and that early childhood trauma contributes to anxiety, depression and a proneness to lash out physically in anger. She asserts a "constellation of psychological vulnerabilities and coping deficits." You receive treatment and advice from a psychologist. There is currently an NDIS plan being prepared for you. You are medicated although there is some suggestion that you were not taking the medication at the time of these offences. You gave up public housing to live with Ms Fisher. You are back on a long waiting list and in the meantime are living with your parents and younger brother. You have few other social interactions or contacts. You do not abuse alcohol or illicit drugs.

Dr O'Donnell's opinion is that your mental impairments are relevant to sentence in a number of ways. Firstly, your psychological difficulties contributed causally to the offences because you were unable to cope with the stress created by the situation you found yourself confronted with. I would readily accept that it would be stressful and demanding for a person without impairment to deal with the constant demands of living with and caring for persons with disabilities which create behavioural challenges. Without excusing your conduct, your own disabilities made you less able to exercise appropriate judgment and think clearly about what to do when faced with an escalating situation. There was no deliberate cruelty. You were overwhelmed by the situation and the assaults resulted from your spontaneous loss of control. It is less appropriate that you be made an example of, although of course general deterrence remains of some relevance. I also accept that a prison sentence would be more onerous for you than it would be for a person of normal health, and is likely to have a significant adverse impact on your mental health. You are already becoming pre-occupied with the prospect of prison, a factor also leads me to conclude that a suspended sentence will be a strong disincentive for you to act in this way again.

You have no prior convictions for violence. You entered an early plea of guilty. I am satisfied that you experience genuine remorse for what occurred. I think that the chance of you re-offending is relatively small. The author of the pre-sentence report also assesses you as requiring a low level of intervention, although I agree that a period of community based supervision should be imposed to enable Community Corrections to work with you to tailor your NDIS plan, to provide housing support and to monitor your ongoing compliance with the treatment from your psychologist.

Timothy Double, you are convicted on each count on the indictment and on complaint 31626/20, count 1. I impose one sentence. You are sentenced to imprisonment for two months. I suspend all of that term for 18 months from today. It is a condition of that order that while it is in force you do not commit any offence punishable by imprisonment. If you breach that condition then a court must order that you serve that term unless it is unjust. I impose a further condition that, for six months from today (the operational period of the order), you are to be

subject to the supervision of a probation officer. The conditions which the law imposes on that order include that:

- you must report to a probation officer at 111-113 Cameron Street, Launceston before 5 pm on Friday 18 December 2020;
- you must, during the operational period of the order, report to a probation officer as required by the probation officer and comply with the reasonable and lawful directions of a probation officer or a supervisor;
- you must not, during the operational period of the order, leave, or remain outside, Tasmania without the permission of a probation officer;
- you must, during the operational period of the order, give notice to a probation officer of any change of address or employment before, or within 2 working days after, the change

I impose further special conditions that:

- you must, during the operational period of the order, submit to the supervision of a probation officer as required by the probation officer;
- you must attend educational and other programs, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.

If you breach any of those conditions you may be brought back to court and re-sentenced.