

Jesse Martin, you plead guilty to *Criminal Code* assault. I also agreed to deal with your plea of guilty to the summary charge of common assault. Both offences were committed on 16 November 2019. Just after noon you and a group of others, including your cousin, were driven to Woolworths in Devonport. You were looking for the complainant, a 16 year old male, who you believed had mouthed off and threatened your cousin. You found the complainant standing outside the supermarket with some of his friends around the same age. You approached him, yelled at him, and as he turned away you punched the left side of his jaw. The punch was of such force as to knock out one of the complainant's teeth and break his jaw in two places. As you stepped towards the complainant as if to punch him again, one of his friends tried to distract you. You turned your attention to him and slapped him twice, once to each side of his face. At that point the car in which you were travelling arrived again and you left.

A few days later you were interviewed by the police. You admitted having struck the complainant. You told the police that your cousin approached the complainant asking to fight, but when he was rebuked you "got angry and punched him." You said it was a hard punch with a clenched fist to the jaw, and that he had done nothing to threaten or offer violence towards you. You admitted striking the other boy and said it was because he had smirked at you.

There is no victim impact statement, but the young man suffered a significant injury. He required surgery to repair the fracture with plates, screws and wires. He spent three days in hospital. The wires were removed a week later. By February 2020 the healing was progressing satisfactorily. I think there are very likely to be other impacts of a physical and psychological nature, although none have been described to me.

You were 22 when these offences were committed. You are now 23. I sought an assessment of your suitability for a home detention order, and the following summary of your personal circumstances comes from the report and from the submissions of your counsel. You are an aboriginal man. Unfortunately, you have the misfortune of having had a very deprived upbringing. Your father was in and out of prison, and your mother was a heavy abuser of alcohol. You spent some time in foster care. When you were seven your father absconded with you to Queensland. It was more than a year before you were retrieved, but even then you were subjected to a nomadic lifestyle and had to shoulder much of the responsibility for the care of your younger siblings. You were subjected to abuse at the hands of your mother's partner which the author of the pre-sentence report described as relentless. You were bullied at high school but managed to make it to Grade 10. You are literate and numerate. Since leaving school you have had no employment of any substance, and there is currently no prospect of any. You rely on social security benefits. You maintain a close relationship with your mother and you have a very strong sense of family. Prior to your remand in custody you lived with your mother and step brother in rented public housing at Longford. You have a young daughter to a previous relationship although you have no contact with that child.

You abused both alcohol and drugs from an early age. You drank heavily from age 16, although you now drink rarely. You used cannabis virtually every day from age 17. You began to use methylamphetamine at age 20 and became a daily user for a year and a half. With the assistance of the alcohol and drug service you managed to stop using methylamphetamine at about the time your daughter was born. However you continued to use cannabis.

For a young man you have a troubling history of violence. In 2016 you were convicted and put on a good behaviour bond for a year for a common assault. On 27 February 2019 you punched a man to the face. On 26 June 2019 you struck another man to the head. On 8 October 2019 you struck yet another man to the head. You were on bail for some those offences at the time of the assaults for which I am to sentence you were committed. You had been fined by a magistrate for one of them only a month earlier. Since then, on 9 June 2020, you have committed a further assault by punching a man to the face. On 1 October this year you were sentenced by a magistrate for the three assaults respectively committed in February and October 2019 and in June 2020. A three month wholly suspended sentence was imposed, with a two year community correction order with a condition that you complete an aggression and addiction program. That is not a prior conviction for sentencing purposes but the chronology of the assaults I have described indicates that you have displayed no remorse for your victims and there is a particular need, as far as can be achieved by a sentencing court, to somehow stop you from acting in this violent way.

You engaged well with the two appointments you attended pursuant to the community correction order prior to your remand in custody. However you have been assessed as unsuitable for home detention. Although the premises are suitable, the author of the report was very concerned that, in that home, you would be constantly exposed to the continuing use of alcohol and cannabis, and the possibility of family violence in which you are likely to intervene to protect your mother. Although you professed a commitment to ceasing cannabis use you have not demonstrated the capacity to abstain when in the community.

Because of the seriousness of the injury you inflicted to the young man you punched a sentence of imprisonment is required. You had not been to prison before I remanded you in custody on 4 November 2020. Some of the term will have to be served, but in light of your age and in the hope that, with help, you can rehabilitate yourself, the appropriate course is to suspend a considerable part of the term with conditions that you submit to supervision in the community. It is desirable to keep you out of prison if possible. That will be up to you. However, if you commit another offence of violence it is inevitable that you will be required to serve the suspended part of the sentence that I impose as well as any further term which might be imposed as well as the suspended sentence which was imposed by the magistrate.

Jesse Martin, you are convicted on complaints 54981/19 and 54982/19. I impose one sentence. You are sentenced to imprisonment for 10 months from 4 November 2020. I suspend eight months of that term for two years 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, during the period the order is in force, 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 within two working days of your release from custody;
- 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.