

STATE OF TASMANIA v SHANE ANTHONY WATSON
COMMENTS ON PASSING SENTENCE

15 APRIL 2021
BRETT J

Mr Watson, you have pleaded guilty to two counts of assault. You have also pleaded guilty to two summary offences of breaching a police family violence order. I have agreed to hear and determine the summary charges pursuant to s385A of the *Criminal Code*.

You committed all of the offences on 9 January 2021. They are family violence offences and were committed against your partner. You and she have been together 10 years and were then, and still are, in a committed and loving relationship.

On the day in question, you were together visiting Scamander. You became agitated and eventually an argument developed between your partner and you. At one point during the argument, your partner left the car in which you were both travelling and tried to walk away. You approached her, screamed and yelled abuse at her and acted in a threatening way. She was required to pick up a stick to keep you away and screamed at you to leave. A number of members of the public offered her assistance but she declined their help.

Shortly after this, you approached the complainant when she was on the Scamander Bridge. There was a further verbal argument between you. Eventually, you threatened to throw her off the bridge and then picked her up and handled her as if you were going to throw her over the railing of the bridge. She used her foot to secure herself to the railing to prevent you doing so. You repeated this action three times, during which you were yelling at her that you intended to throw her off the bridge. This was all seen and heard by members of the public, who were passing by and obviously concerned about your conduct. In your agitated state, you then charged and yelled at those people. You then again took hold of the complainant and attempted, once again, to throw her over the railing of the bridge. Eventually, you complied with the complainant's demand that you leave the area and the incident came to an end. However, when you saw the complainant at her friend's home a little later, you made a demeaning and abusive comment towards her.

Your partner reported the matter to police and a police family violence order was served on you later that day. It contained conditions which required you to stay away from the premises in which the complainant had sought refuge. You were in custody when this order was served on you, but were released later in the evening. After your release, and in breach of two conditions of the order, you immediately went to those premises. You were arrested by police for breaching the order and you then remained in custody until I granted you bail after the plea in mitigation on 1 April 2021. You did not apply for bail after your arrest by police.

Your conduct that day was appalling. Although I suspect that you were not seriously trying to throw your partner off the bridge, your actions must have terrified her, as well as being demeaning and highly embarrassing to her. The bridge in question is very high and had you successfully pushed her over the railing, it is likely that she would have suffered serious injury or even worse. Your conduct was witnessed by several members of the public, who must also have been extremely concerned about what you were doing. All of these matters make your conduct a serious example of family violence.

However, to understand the context in which this offending occurred, it is necessary to say something about your background. You are 51 years of age. You and your partner have known each other for most of your lives and have lived together in a committed relationship for the

past 10 years. You came to Tasmania together in 2015. You both relocated then from your former home in South Australia. The purpose of the relocation was to help you break free from a long history of illicit drug use and associated criminal behaviour, and to make a new start. It seems that this was largely successful, and you have been living together for some time in St Marys. You have a very lengthy history of criminal offending in South Australia, which includes some assaults, although the last of these was committed in 2004. Your record in Tasmania is not pristine and there is one offence committed in 2018 which involved the assault of a police officer. There is also other offending, but it is clear that the pattern of offending in South Australia has significantly abated since your relocation to Tasmania. Importantly, there is nothing in your record in the nature of prior family violence offending.

In December 2017, you were the victim of serious criminal violence. A person with whom you had been in dispute for some time hit you to the head with a large solid object during a confrontation outside your home which was not of your making. This person was convicted of unlawfully wounding you, and sentenced to a lengthy term of imprisonment. The lead up to this crime had included a long period of abusive and threatening conduct directed towards you and your partner. In his sentencing comments, the learned sentencing judge described the impact of the crime on you which included significant emotional and psychological consequences, as well as ongoing headaches. Your treating neurologist confirms that you were diagnosed with epilepsy in October 2018 and have been on medication for that condition ever since. Your perception is that around the time of a seizure, you become more aggressive and have difficulty with emotional control. These effects are confirmed by the neurologist to be commonly associated with epileptic seizures. Your counsel tells me that you had missed your medication shortly before this incident. It is suggested that this may have affected your behaviour. This possibility is confirmed by the neurologist. Of course, none of this reduces your moral responsibility for what you did. Your capacity to control your conduct was not diminished by your condition. However, it does provide some context and explains why you acted in such an appalling way towards a person whom you claim to love and, as you concede, has been enormously supportive of you during the course of your relationship. It also assists me to conclude that your conduct on this occasion was out of character, that you have good insight into its seriousness, and that because you are aware of the need to maintain your medication, it is unlikely that you will act in this way again. This conclusion is also supported by what I perceive to be genuine remorse for your conduct. Your remorse is demonstrated in a practical way by the fact that you did not apply for bail after your arrest and you pleaded guilty to these charges at a very early time in the Magistrates Court.

All of this is consistent with the contents of an impact statement provided to me by your partner. She confirms the nature of your relationship and that she is committed to continuing the relationship. She says she is not scared of you but rather, is worried for you. She also seems to have a clear understanding of the link between the epilepsy and your mood. It is clear that she has forgiven you.

However, the crimes you committed are very serious. They represent a grave breach of the trust that underpinned your relationship and were a shocking way to treat your partner. I have already commented on other serious aspects of this offending. Family violence is unacceptable and will not be tolerated by the courts. Your conduct deserves the imposition of a sentence of imprisonment. However, as I said when I granted bail, I am of the view that although the requirements of general deterrence and denunciation require a longer sentence, the period of approximately three months which you have already spent in custody is sufficient actual punishment. Having regard to the contextual and personal factors to which I have referred, I

intend to give you the opportunity to avoid serving the balance of the sentence. Accordingly, I will suspend the remaining part of the sentence. I do not think it is necessary to provide for ongoing supervision because I think you have adequate insight into your underlying difficulties and have the capacity and the will to seek appropriate assistance.

Accordingly, the orders I make are as follows:

- 1 You are convicted of the crimes and the offences to which you have pleaded guilty.
- 2 You are sentenced to a global term of 9 months' imprisonment, which will be backdated to 9 January 2021. The balance of the sentence after 31 March 2021, will be suspended for a period of 18 months from today, on the condition that you are not to commit another offence punishable by imprisonment during that period. You are not eligible for parole in respect of the operational sentence.
- 3 Pursuant to s 13A of the *Family Violence Act*, I direct that each crime and offence be recorded on your criminal record as a family violence offence.