

Mr Mansell, the defendant, has pleaded guilty to one count of robbery committed on 13 September 2020. In essence, the crime is one of stealing money from a taxi driver by the use of violence. The complainant is Karan Bir. He was regularly used by an associate of the defendant, Mr White. In the afternoon of Sunday, 13 September 2020, the defendant and Mr White met at a hotel in Moonah. Later, Mr White called the complainant and asked him if he was free to pick him up near the Moonah taxi rank. The defendant and Mr White waited at the taxi rank for the complainant to return having taken another fare. The complainant drove to where the defendant and Mr White were standing. The defendant got into the front passenger seat and the complainant drove away. The defendant opened the centre console in the vehicle and grabbed a handful of money. It is not clear, but at this time I assume the complainant stopped the vehicle. He tried to close the console and there then ensued a scuffle during which the defendant tried to overpower the complainant in order to get at the money. He either hit or pushed the complainant with his hand or forearm to the face, neck, head and chest. The defendant tried to take the complainant's wallet from the driver's door at which point the complainant put him in a headlock momentarily before the defendant got out of the taxi. The complainant followed in an attempt to recover his money and the two ended up wrestling. The complainant called out for help and the defendant ran away, leaving the wallet behind. Police were called. The defendant was arrested nearby shortly afterwards. He was taken to the police station. When searched \$65 was found in one of his socks. He made admissions about robbing the complainant of the \$65 and was then formally interviewed. He said he went to the hotel and met his friend, Mr White. He said he was looking to obtain some drugs to calm him down. He gave Mr White \$50 or \$60 and received nothing in return. Mr White suggested to him that he, Mr White, would call a taxi and advised the defendant to look in the console and grab the wallet if he could. The defendant agreed on the basis that he would give Mr White some of the money. Though he admitted taking the money he denied an assault. The complainant sustained a scratch to his face during the scuffle inside the taxi. There is no victim impact statement.

The defendant is now nearly 40 years old. He has a very lengthy record of offending, much of it involving offences of dishonesty but there are convictions for crimes of violence. There are serious crimes involving robbery committed as a youth. Leaving those aside, there are convictions in October 2001 for aggravated robbery for which he was sentenced to a term of nine months' imprisonment cumulative to a current term for offences of dishonesty. Between 2001 and August 2018 there are 10 convictions for assault, many of which led to terms of imprisonment. On 28 April 2021, on a range of driving and dishonesty offences, he was sentenced to six months and 12 days' imprisonment backdated which brought it up to the date of sentence, and he was made the subject of a home detention order for nine months from that date. He was also sentenced to three months' imprisonment suspended on conditions for two years. In addition, a community correction order for 18 months was made. The report to the magistrate for that appearance noted that the defendant stated intentions to "start a new lifestyle" following his release from custody, and to avoid any further substance use. I will come back to that home detention order. I was told that the defendant had limited education. He completed primary school in the south of the State before his family moved north. He started grade 7 but was expelled due to his behaviour. He was about 13 at the time. Drug use started and he soon got into trouble with police. He spent some time in Ashley where he had some further schooling without completing any qualifications. He has had work over the years, particularly in plastering. He lost two jobs through no fault of his own and no doubt his substance abuse contributed to employment difficulties. He has been a user of

methylamphetamine for some time although apparently not at a particularly high level, and he has achieved periods of abstinence. However, it seems stressful life experiences cause him to relapse. In the period August to October 2020 he was using drugs liberally and generally offending. The offences for which he was sentenced in April this year cover that period, and of course this offence is within that timeframe. What seems to have triggered that period of substance abuse and offending is that his mother had been diagnosed with a recurrence of cancer, having undergone a course of chemotherapy, and he separated from his partner at about the same time. On his own admission he went "off the rails". As to this offence, I was told he has limited recollection of it. Plainly, he was using drugs at the time. He had a small amount of cash that he had taken to see Mr White. He was told that he needed more cash, and the opportunity to get more was explained to him by Mr White. As counsel said, "he stupidly chose to do exactly that". I am told that he is remorseful and apologetic for his conduct and is aware that the impact of what happened on the complainant may be more profound than a scratch on the cheek. At the time I first dealt with this matter on 6 August 2021, there was a pending application to cancel the home detention order, primarily due to difficulties that had arisen with the defendant living at the nominated address. He was living with his parents but friction between him and his mother led to him being away when he ought not to have been. The defendant had, at that time, been in custody since 21 July. On 17 August the home detention order was confirmed in respect of an alternative address, subject to review on 16 September. The Community Corrections review report said the defendant was to be commended for his positive re-engagement with the order. On 19 August I bailed him to appear today and he was released from custody and he was then subject to the terms of the order. On 16 September the magistrate continued that home detention order.

Plainly this is a matter of some seriousness. Taxi drivers are vulnerable people and the sentence should reflect factors of general deterrence and denunciation. This was not an impulsive act; it was planned, with the driver being lured to the scene. In addition, the defendant's record suggests the need for a sentence directed at specific deterrence. However, there are positive signs of his rehabilitation and the magistrate took the view that a home detention order coupled with a community correction order was appropriate in the circumstances as they stood. There is also of course the three months suspended sentence to which the defendant is still subject. Noting that home detention is a type of imprisonment, I am satisfied that the circumstances of this matter do not justify cutting across the rehabilitative measures put in place by the magistrate and what his Honour intended. As I have noted, this offence is within the same period of drug related offending as the offences dealt with by the magistrate. I take into account the defendant's plea of guilty, and his apparent insight into the consequences of his conduct. Subject to the defendant's consent I propose to effectively extend the period of home detention, noting that he has now spent a few days in custody on this matter.

Mr Mansell, I have set out the facts and what I see to be the relevant considerations. This was a nasty attack on an unsuspected person just doing his job. You have not offered a drug use as an excuse and, of course, it provides none. You are convicted of the crime of robbery. Subject to your consent, I will make a home detention order in the same terms as the present one for a period of nine months to commence at the expiration of the present order.

[The defendant confirmed through his counsel that he consented to the order being made.]

I make a home detention order for the period I have stated, in the same terms as the order made by the magistrate on 17 August 2021 to the extent of conditions 3 to 14 inclusive. They are the only conditions required for this order. As a matter of caution, I should direct that you report to a probation officer at 3 Terry St Glenorchy by 5pm today.