

The complainant in this matter is Jordan Paul Markham. In November 2019, he lived with his partner Thomas Ingram at Holbrook Street in Invermay.

The defendant, Tyler Angel has pleaded guilty to one count of assault on indictment. I have also agreed to deal with associated summary matters, namely, a charge of common assault to which I have accepted a plea of guilty through counsel.

In November 2019, the defendant and his older brother Bradley Angel lived in Somerset and knew Thomas Ingram from school. The complainant had met the defendant and his brother a couple of times through Thomas Ingram.

On Wednesday 13 November 2019, the complainant and Mr Ingram were at home in Invermay and the defendant and his brother Mr Angel were at home in Somerset when the complainant and the defendant started arguing via Facebook messenger. A not uncommon occurrence in my experience in recent times.

At approximately 5pm, the defendant and his brother Mr Angel drove from Somerset to the complainant's house on Holbrook Street in order to put a rumour to rest. When they arrived, due to a lack of parking out the front of the house on Holbrook Street, they parked the car around the corner on Gleadow Street, which is a dead end street.

They walked to the complainant's home and knocked on the door. The complainant and Mr Ingram decided to ignore them and hide. The defendant and his brother then started kicking the door and knocking on the windows.

The complainant and Mr Ingram called 000. They then started discussing arming themselves for protection.

The defendant's brother picked up a shovel and smacked a window with it causing it to shatter.

The complainant Jordan then went outside armed with a pole and chased the defendant and his brother away from the property. Mr Ingram followed with a knife.

The defendant and his brother ran back towards their car which was parked nearby on Gleadow Street. The defendant unlocked the car and got in, locking the doors afterwards. His brother did not think he had enough time to get in the car so he ran down Gleadow Street which culminates in a dead end, he was calling out to his brother to pick him up further down the street.

The defendant was inside the car when the complainant hit the vehicle with the pole.

The defendant then reversed the car out of the parking spot and drove towards the end street of Gleadow Street. He turned around and drove back towards the complainant and Mr Ingram who were near the intersection of Gleadow Street and Holbrook Street.

As the defendant approached the complainant and Mr Ingram, the defendant suddenly turned left and drove towards Mr Ingram who was on the gutter at the time causing him to jump out of the way. The defendant's car hit the gutter. The defendant quickly

reversed then drove forward along Gleadow Street again. In the meantime the complainant had run towards Mr Ingram. As the defendant drove the car forwards on Gleadow Street he hit the complainant with his car.

The complainant went onto the bonnet of the car and hit the windscreen before rolling back down and landing on the ground.

The defendant then collected his brother and drove away back home to Somerset.

An ambulance and police attended the scene.

The complainant attended the Launceston General Hospital. He suffered an injury to his left patella, superficial abrasions to his right side of his face and ear; superficial abrasions to his right shoulder and fingers; and tenderness to lower ribs but there were no fractures or acute injuries.

Mr Ingram did not receive any injuries.

The defendant's record of prior convictions show no offences for violence, merely traffic offence before and after the event.

I have seen a victim impact statement from the complainant. He feels uncomfortable when in a car and he doesn't drive so is always the passenger. He still has pain in his knee almost two years later. He also has small scars on his face and is self-conscious because of them.

The defendant is currently living with his grandparents and is single with no dependants. He grew up in Somerset with his mother and step father and four siblings. He attended school to year 10 and entered workforce after that. After completing year 10 he undertook certificate 3 courses in both retail and warehousing & logistics.

He has held positions of employment in retail, food services and as a delivery driver. He is currently operating his own gardening and landscaping business and is studying certificate 3 in disability services. As can be seen he has a strong industrial record and has never been without employment for extended period.

In mitigation, it is put that the defendant was not unreasonably fearing that he and his brother were going to be assaulted and he drove the car as he did, only to collect his brother and leave the area as soon as possible. There is doubt in my mind as to that but it is clear that the occasion was one for panic.

The defendant is still a young man and has not offended since these events, almost 2 years ago now. Accordingly I do not believe that a sentence of actual imprisonment, is warranted in the circumstances.

I have had the defendant assessed by a probation officer for his suitability for community service. He has been deemed unsuitable for a Community Correction order with a community service condition due to his poor compliance and problematic behaviour on his previous order.

I am informed that on 21 July 2020 the defendant was made subject to a Community Correction Order with a community service condition of 45 hours. However he received

a prosecution warning due to non-compliance and during his meeting to receive this he was described as behaving in an aggressive, argumentative and rude manner. He was observed to be shaking, had bloodshot eyes and highly dilated pupils and cited his anxiety as the cause for his non-compliance. He was stood down from community service after this for a period of time to enable him to work through his poor mental health, after this he reengaged with a more positive attitude.

Section 29 of the *Sentencing Act* 1997 provides that in determining whether to make a community service order in respect of an offender, a court may have regard to the extent to which the offender complied with any previous community service order.

I have done so in this case and I am not satisfied that a lapse such as has been described to me, that cannot be attributed to other than now resolved anxiety, is sufficient reason not to make a further Community Correction Order with a community service condition. Particularly not when the sentencing choice is as stark as the immediate imprisonment of a young man and a suspended sentence coupled with with a community service condition.

The defendant is convicted of assault and of common assault. I impose a single sentence in respect of both offences. The defendant is sentenced to 6 months' imprisonment which sentence I wholly suspend for a period of 2 years, on condition that he commit no offence punishable by imprisonment during that period. In addition I make a community corrections order for a period of 30 months with all of the core conditions and a condition that within the operative period of that order he complete 70 hours of community service.

Mr Angel if you do not perform your community service without a certified medical reason and if you are the subject of an application to cancel your community service order, and I do – I will activate your suspended sentence and send you to jail for 6 months with no parole period available.