

**STATE OF TASMANIA v BRADLEY JAMES FAHEY  
and ANTHONY CRAIG DILLON  
COMMENTS ON PASSING SENTENCE**

**6 OCTOBER 2021**

**BRETT J**

Mr Fahey and Mr Dillon, you have each pleaded guilty to one count of committing an unlawful act intended to cause bodily harm, contrary to s 170 of the *Criminal Code*.

The crime was committed by you on 14 May 2021 in the car park of the Cygnet hotel. You and the complainant had been attending a social function there. At about 10:30pm, the complainant left the hotel and walked to his car, obviously intending to go home. Dillon, you were told by another patron that he had taken a Keno ticket which belonged to you. This was apparently sufficient motivation for you to follow him and then administer a brutal and prolonged beating. At an early point in this assault, you Mr Fahey were told what was happening outside and immediately went to assist Dillon. The attack started with a single punch to the head from Dillon which knocked the complainant into the bonnet of his car, where he hit his head before falling to the ground. Thereafter, each of you punched and kicked him to the body and head numerous times while he was lying on the ground. The complainant initially and unsuccessfully attempted to protect his head, but lost consciousness after a relatively short time. Despite this, you both continued to assault him, including by stomping on his head a number of times. Fahey, when you first arrived, you picked the complainant up from the ground and punched and kned him to the head multiple times. At a later point, after he had become unconscious, you dragged him along the ground. You also searched his clothing and his vehicle. It is estimated that together you struck the complainant in excess of 40 times. At no stage during this was he able to defend himself. The entire attack was captured on CCTV, and the vision is chilling.

The complainant was taken by ambulance to hospital where he remained as an inpatient for 11 days. He received fractures to his ribs and his face, including a nasal septal fracture with deviation to the left, right and frontal sinus. He also suffered a punctured lung. He asserts that he has lost his sense of smell and requires further surgery in relation to the fractured septum. The surgery may involve insertion of a plate in his forehead. His victim impact statement contains considerable detail in relation to the ongoing problems arising from these injuries, as well as the ongoing psychological consequences of the trauma. He is receiving psychological counselling and describes very significant ongoing impact on his life, including on his ability to perform his duties as the full-time carer of his mother.

Mr Dillon, you are 50 years of age. You are single with no children, and were born and raised in Tasmania. You were a ward of the State at a young age and spent time in foster homes and State care during your childhood. You suffered abuse in State care and have received financial compensation related to that abuse. I am told that you have struggled with alcohol and illicit drugs for most of your life. You have an extensive criminal history, and you have been imprisoned on a number of occasions. Your criminal history demonstrates a disturbing propensity for violence. You were first imprisoned at the age of 18 for offences which included assaulting a police officer. At some point before 1992, you went to live in Queensland. Your record in that State includes a number of offences involving violence. In 1997, you were convicted of serious crimes of violence which included manslaughter, deprivation of liberty and assault, and sentenced to an effective term of 10 years' imprisonment. You were released on parole in 2006. Four months after your release, you seriously assaulted a man who was attempting to help your girlfriend after a car accident. You had been at a party with him and had been drinking. The assault was brutal and involved you punching the man repeatedly to the face

with force, while you knelt on his chest. You also kicked him in the face when he attempted to get up. He suffered severe injury as a result of the assault. The sentencing judge described the violence as mindless and noted that the attack was unprovoked and in the context of you having consumed alcohol and cannabis earlier in the evening. Your parole was revoked and you were sentenced to a cumulative period of two years' imprisonment. In 2018, you were again sentenced by this Court for an assault. Once again, there are similarities between your conduct in respect of that crime and that relevant to the 2006 offending, and to the offending before me. On this occasion, again without provocation, you assaulted a man with whom you were drinking at a hotel, by punching him once with a closed fist to the face. The punch caused a fractured cheekbone which required surgery. You were sentenced to 15 months' imprisonment on that occasion. You had been out of prison for about 12 months when you committed the crime with which I am dealing.

Your conduct in respect of this crime demonstrates that you have learnt nothing from prior sentencing, and confirms the existence of the propensity for violence identified from your prior convictions. It is telling that your violent offending seems invariably to be linked to the consumption of alcohol and perhaps illicit drugs. On this occasion, you went after the complainant, confronted him about the relatively minor issue of a Keno ticket, and then callously and brutally went about seeking retribution. It is apparent from the CCTV vision that your application of violence was unprovoked, sustained and perpetrated in an unhurried and purposeful manner. After you had finished with your victim, you left him injured and unconscious on the ground and walked away, without making any attempt to assist him. In your case, I am satisfied that there is a significant need for a sentence which emphasises personal deterrence and community protection. On the other hand, I will take into account in your favour that you have pleaded guilty at an early time. I note that you did not apply for bail after your arrest. I think there is an element in this decision-making of recognition of the inevitable, but I also accept that you have accepted responsibility and have some remorse. The difficulty is that, having regard to your history of violence, the existence of true remorse and even insight provides little cause for comfort concerning your future conduct.

Mr Fahey, you were 40 years of age when you committed this crime. Your childhood was marred by parental abandonment and neglect, and you also have had a long-standing problem with alcohol and drugs, as well as mental health issues, including anxiety and depression. You also have a lengthy criminal history. It is largely comprised of offences relating to driving and illicit drug use, and I note that you have no prior convictions involving violence. In that sense, it can be said that your involvement in this crime was out of character. You have demonstrated remorse and insight by an early plea of guilty and by taking some positive steps to address your substance abuse and mental health issues.

This is a serious example of the crime to which you have both pleaded guilty. I have already commented on the sustained and brutal nature of your joint attack on this man. Other aggravating features include the fact that it was unprovoked, you acted in company with each other, you continued to attack him when he was unconscious, and when you had finished you left him unconscious and injured on the ground. He suffered relatively serious injuries but, of course, the consequences could have been even more serious. Your intention was to cause serious injury to the point of grievous bodily harm. The continuation of the attack while the complainant was unconscious and vulnerable suggests that the continued violence had no purpose other than cruelty and retribution. Violence of this nature has no place in our community, and the conduct of both of you deserves severe condemnation and emphasises the need for general deterrence.

These comments apply to you equally. The result is that the only appropriate sentence in respect of each of you is a significant term of imprisonment. However, I agree with Mr Coates that there is a clear basis to distinguish between you in respect of the length of that sentence. In terms of the commission of the crime itself, although the moral culpability of each of you is high, it is clear from the CCTV footage that Mr Dillon was the initial aggressor. However the basis for this as a cause for disparity is limited, because it is also clear that when Mr Fahey joined the attack, he participated in it in an enthusiastic and equal manner to Mr Dillon. However, there is a significant disparity between you in terms of criminal history, and in Mr Dillon's case, as already discussed, there is a significant need for personal deterrence and protection of the public. While the use and apparent enthusiasm with which Mr Fahey joined in and continued with the attack suggests that there is a modest need in his case for personal deterrence, that consideration is much more significant in the case of Mr Dillon.

You are each convicted of the crime to which you have pleaded guilty. The sentences I impose are as follows:

Anthony Dillon, you are sentenced to imprisonment for a term of 5 years. The sentence will be backdated to the date that you went into custody which is 15 May 2021. I think that it is appropriate that you be provided with the opportunity of parole, but having regard to the need for personal deterrence, the time you spend in actual custody should exceed the minimum period. Accordingly, I order that you not be eligible for parole until you have served three years and nine months of the sentence.

Bradley Fahey, you are sentenced to imprisonment for a term of three years. This sentence is backdated to 27 September 2021. As you have no prior history of violence, it is appropriate that you should have the opportunity for parole at the earliest time. Accordingly, I order that you not be eligible for parole until you have served one half of the sentence.