

Ms Brown, you been found guilty by a jury of two counts of wounding and one count of assault. After the jury's verdict, you pleaded guilty to a further summary count of assault.

These offences were committed on 10 August 2019, during a social occasion at a hotel in Bellerive. You and the complainant had both coincidentally been invited to the function. You were known to each other. In fact, there seems to have been a relatively lengthy history of animosity leading up to this day. This seems to have arisen from the fact that your then partner, who is now your fiancé, had previously been in a relationship with the complainant. You assert that you had been subjected to a lengthy course of harassment and abuse at the hands of the complainant, although it is not suggested that she did anything on this night to provoke your criminal conduct. She disputes your assertion about the history but I do not need to determine the rights and wrongs of the lead up events. The history is relevant only to explain your attitude to the complainant and your reason for acting in the way that you did.

The events which constitute the offending were disputed at the trial, but this dispute in my view has been substantially resolved by the jury's verdicts. To the extent that any further resolution is required, I have relied on the CCTV footage, together with the testimony of the bar attendant. Her evidence was completely independent and clearly credible, and I accept it as truthful and reliable. Understandably, the complainant's description of the relevant events suffered from the unexpected and violent nature of your attack on her, as well as its brevity. In my view, she was not able to give a reliable description of what transpired. This is not a problem because the CCTV footage depicts, very clearly, the entire event. In the footage, you can be seen purchasing drinks from the far end of the bar, walking with them past the complainant and then standing in a group at the near end of the bar for a short time. The complainant is standing further along the bar, engaged in conversation with one or 2 persons. You walk back to the other end of the bar, again passing the complainant, where you wait for a very short time. You then walk determinedly back to your original position, pick up a full glass of which seems to be beer from the bar, walk up behind the complainant and pour the drink over her head. Your movements during this sequence are determined and purposeful. The act of pouring the beer over her constitutes the common assault.

After doing this, you return to your original position at the end of the bar. The complainant, who was facing away from you at the time that you poured the drink over her head, looks around and sees you. At this point, you simultaneously move towards each other, although you picked up a glass containing liquid probably beer before you do so. As the two of you meet, the complainant swings her handbag at you and you simultaneously push the glass into her face. The jury's verdict can only be consistent with the causation of a wound as a result of this act. The only inference available in my view, from that act, is that the glass is broken at that time and cut her face. The prosecution asserts only subjective recklessness with respect to this act of wounding, and I proceed on that basis. However, it is clear that the act of pushing the glass against her face was deliberate, and it can be easily accepted that you must have actually contemplated the risk that the glass would break and cause a wound. Although the contents of the glass can be seen going over the complainant as you pushed the glass into her face, it is consistent with the jury's verdict that you deliberately brought the glass into contact with her face, with the actual knowledge that it might break and cause a wound. As I have already said the only possible inference from the

verdict is that the glass did actually break and cut her at that time. After this, the complainant immediately retreated from you and you chased after her. It is clear also that you again deliberately attack her face with the glass, which by that time was broken. This all happens relatively quickly and I cannot be sure that you were aware that the glass was broken when you did this. I, therefore, proceed on the basis of subjective recklessness in respect of the second attack, but this does not seem to me to reduce your moral culpability to any significant extent. You chased after the complainant, who by that time was absolutely no threat to you, and deliberately attacked her face with a glass. This was extremely brutal and dangerous, and you bear a high degree of moral culpability for this act. After this, you took hold of the complainant's hair and only let go because bystanders pulled you off her. This, of course, constitutes the criminal code assault.

Self-defence was left to, but rejected by, the jury. I am satisfied that you did not act defensively at any time. I am satisfied beyond reasonable doubt that you were the aggressor throughout this event. You started it without any provocation whatsoever. It is clear to me that you expected to provoke a reaction from the complainant when you poured the drink over her head, and you were ready for her when she did react. This is clear from the footage, which shows you picking up the glass and moving towards her in a purposeful manner as soon as she turned towards you. You pushed the glass into her face without any hesitation. You could easily have fended off the attack with the handbag, and in any event you were moving toward her with the glass, before she started to swing the handbag. As already discussed, you continued the dangerous aggression after she had retreated. This event was entirely of your making, and nothing that the complainant did mitigates the seriousness of your actions.

The complainant suffered a number of facial lacerations. These included a deep laceration above the lip which penetrated through the skin and some muscle tissue and required surgical repair under general anaesthetic. There was also a laceration of the nose and multiple superficial lacerations to the forehead. A number of these required stitches. The complainant's impact statement asserts ongoing physical symptoms including pain, as well as interference with work and some ongoing psychological impact. Your counsel has disputed the extent of the ongoing psychological effects, which flow from these events, particularly in the light of other issues which have said to affected the complainant at the time. However, it is not disputed and obvious in any event that an unexpected and violent attack such as this in a public place, with consequent causation of facial lacerations by a glass, would have been very traumatic and this trauma can be expected to cause significant impact for a period of time. Further, it must, or at least, should have been obvious to you that forcing a broken glass into somebody's face could easily cause serious injury. You caused serious injury, but of course, there was potential for even more serious consequences. Finally there is the question of the scarring which seems to me to have been resolved by the information I have received today. I think the scarring was, to the extent available having regard to the skill of the doctors, treated effectively but it is still there and will always be there on this woman's face. And that is obviously a matter of considerable concern.

It is difficult to fathom why you acted in the way that you did. You were 27 years of age at the time of these events and are now 29. You are clearly a person of otherwise good character. Your only prior convictions are for traffic offences, and the only offending since these events is one traffic infringement notice. There is nothing in your background that suggests any propensity for violence. You are an industrious person, and are currently fully occupied as the administration manager of your fiancé's business, as well as the care of children. You assist with the care of your partner's 6 year old child who has some significant health difficulties, as well as your own child,

who was born in 2020. You admit to a history of excessive alcohol consumption, and this issue has some relevance as you were obviously affected by alcohol on the night in question, the fact that you were affected by alcohol does not excuse your conduct and in my view does not satisfactorily explain your conduct, but it is a relevant factor. However, it would seem that you have recently been able to bring this issue under control, particularly having regard to your recent pregnancy and care of an infant child. You have been assessed by community corrections as requiring a low level of intervention and I accept this assessment.

Given that you went to trial you cannot, of course, claim the benefits of the plea of guilty. However, I do accept that you have some insight into the seriousness of your conduct and did experience, and indeed spontaneously express, some remorse when you realised what you had done. I think that you genuinely displayed surprise and bewilderment during the police interview when the full extent of your actions and their consequences became clear to you, and you also expressed genuine concern for the complainant. You did not follow this up with a plea of guilty, but you cannot be punished for exercising your right to a trial. My observations of your reaction in the police interview are consistent with your history, which supports the proposition that you are a person of good character who acted in an extraordinary and out of character manner. You have also experienced quite serious abuse and harassment at the hands of members of the complainant's family, although it is clearly accepted by you that the complainant had nothing to do with this. You have also significantly affected your own future because irrespective of the penalty imposed by me, it would seem that you have completely destroyed your ambition of becoming a nurse. You had commenced studies towards a Bachelor of Nursing prior to committing these offences. Although no decision has been made by the relevant authorities as to your professional future, I accept that it is highly unlikely that you will be accepted into the nursing profession having regard to your conviction for these serious crimes of violence.

General deterrence, vindication of the victim and denunciation of dangerous public violence of this nature are important sentencing considerations. Ordinarily, they would warrant the imposition of a sentence of actual imprisonment. However, given your prior good character, including lack of prior convictions, the fact that you have the care of young children and the other mitigating factors, I think that you should be given an opportunity to avoid having to actually serve a sentence of imprisonment. Given the seriousness of the offending, I had contemplated imposing a wholly suspended sentence of imprisonment, which is regarded as a harsher sentencing option than a period of home detention. However, in the circumstances of your case, I think that a home detention order would be particularly appropriate. You will be able to pursue your work and child care responsibilities from home, but for a significant period of time a consequence of your restriction to your residence will be that the denial of your general freedom to move around the community and in particular you will be prevented from participating in the type of social occasion that provided the context for this offending. Further, a condition of the order will prevent you from consuming alcohol at all and this will be subject to regular testing, which I think is also particularly appropriate. You and your residence have been assessed as suitable for home detention. Accordingly, this is a sentencing option I intend to impose.

The orders I make are as follows:

- a. You are convicted of the crimes of which you have been found guilty and the offence to which you have pleaded guilty;

b. I make a home detention order, which will have an operational period of 18 months, commencing at 10am tomorrow. The home detention premises will be at [address]. I note that the core conditions of the order contained in s 42AD(1) will have effect during the operational period of the order. This will include s 42AD(1)(g), which is the provision requiring submission to electronic monitoring. For the purposes of the condition contained in s 42AD(1)(c), I specify that the offender must during the operational period, be at the home detention premises at all times on each day of the week unless she is not there for a relevant reason, as specified in s 42AD(4). The order will also include the following special conditions:

1. That you must report to a community corrections officer at community corrections at Glenorchy before 10am tomorrow.
2. That you must during the operational period of the order maintain in operating condition an active mobile telephone service, provide the details to a community corrections officer and be accessible for phone contact throughout this device at all times.
3. That you must during the operational period of the order submit to the supervision of a community corrections officer as required by that officer.
4. That you must not, during the operational period of the order, take any illicit or prohibited substances, including:
 - i. any controlled drug as defined by the *Misuse of Drugs Act* 2001
 - ii. any medication containing an opiate, benzodiazepine, bupropion, hydrochloride or pseudoephedrine unless you provide written evidence from a medical professional that you have been lawfully prescribed the relevant medication.
5. You must not during the operational period of the order consume alcohol and you must if directed do so by a police officer or community corrections officer submit to a breath test, urine test or other test for the presence of alcohol.