

Matthew David Free has pleaded guilty to one count of wounding. The crime was committed about 2.36am on 7 August 2021. The complainant is Lachlan Donald Edwards. He was aged 25 at the time he was wounded. The complainant was in the Cargo Bar in Salamanca Place with his friend Mr Pregnall. At the same time, the defendant was in the Cargo Bar. The defendant and Mr Pregnall knew each other. They had previously been good friends but had had a falling out some months earlier. The defendant and Mr Pregnall became involved in a verbal argument which escalated into a physical exchange. Mr Pregnall punched the defendant in the face, before both men continued exchanging blows. Mr Edwards attempted to separate the two men. As the defendant was moving backwards, away from the confrontation, he threw a schooner glass, which he had in his hand, in the direction of Mr Pregnall and Mr Edwards. The glass struck Mr Edwards in the forehead above his left eye. A melee followed. During that altercation, Mr Edwards punched the defendant several times. Eventually bar staff were able to calm the situation and all men were removed from the venue.

Police were called to the scene. When they arrived Mr Edwards was bleeding freely from a wound to his forehead. He was taken to a first aid tent, and then to the Royal Hobart Hospital. After waiting in emergency for approximately two hours, Mr Edwards left without receiving any treatment. He subsequently attended his general practitioner on 9 August 2021. By that time, the cut had been left for too long and stitches were no longer viable. Instead the wound was glued. It has left a scar approximately 1cm in length. The defendant voluntarily attended the Hobart Police Station on 26 August 2021 and participated in a record of interview. He told police he had been consuming alcohol but was not badly affected. He said he was still in a "reasonable state of mind". He said there was a fight between him and Mr Pregnall. He said he could not remember anything about a glass being thrown. When shown CCTV footage of the incident, he agreed he had thrown the glass at the complainant. He maintained he could not remember doing it or indeed seeing the complainant at all. He was shown an image of the complainant's injuries and expressed concern as to what had occurred.

It is common ground that I sentence the defendant on the basis that the wound was recklessly, and not intentionally, caused. It is accepted that when the defendant threw the glass he did not intend to hit the complainant with it, but he should have foreseen the likelihood that his actions of throwing a glass in the direction of the complainant may have wounded him.

I accept the defendant is remorseful for his behaviour. He expressed the same to police during his interview. He has pleaded guilty at a very early stage of the proceedings. That plea is consistent with remorse, as well as having practical value and demonstrating a preparedness to facilitate the course of justice.

The defendant is 26 years of age. He lives in a unit on his grandparents' property. He is in full-time employment in civil construction with the Hobart City Council. He experienced a very difficult upbringing. His father was unknown to him. He was exposed to violence and neglect by his mother, necessitating him being raised by his grandparents from an early age. To his credit, he was able to successfully finish year 11 education and since then has worked consistently. He has an industrious employment history and is currently undertaking further courses in order to better his qualifications. He is undertaking a Cert III in Civil Construction and also undertaking a number of "tickets" which will enable him to operate machinery within the civil construction field. I am told he is well regarded in his employment.

The defendant admits he has had difficulty controlling his temper in the past. He is currently undertaking counselling with Anglicare in an endeavour to improve things. He has some relevant prior criminal history. As a youth, he was cautioned for a matter of recklessly discharging a missile to the danger of another person and a matter of common assault. They occurred in 2010 and 2011 respectively when the defendant was obviously young. More recently, in November 2020, the defendant was convicted of one count of common assault. It was a family violence incident. It involved spitting in the face of his then partner and pushing her to the shoulder. He was also convicted of two counts of destroying property which related to some of her personal items. Whilst I accept these incidents occurred in a different context, they are reflective of the defendant resorting to the use of violence when a situation of angst arises. Specific deterrence is a necessary sentencing consideration.

I accept the defendant's reaction was an impetuous one, committed in circumstances where he was agitated because of the assault that had been perpetrated upon him by Mr Pregnall. Nevertheless alcohol fuelled violence in and around hotels and night spots is a matter of concern. The use of glasses as weapons in hotel settings is all too common. Whilst I accept the defendant did not intend the glass to hit the complainant, throwing it in the direction of others was clearly a very foolish and dangerous thing to do. It had the potential to result in serious injury. If the glass had struck the complainant a few centimetres lower, a serious eye injury, including perhaps the loss of sight, may have been the outcome. It is most fortunate the complainant did not suffer a more serious injury. It appears as though the physical injury has healed without complication, but it has left Mr Edwards with a permanent disfiguring scar. I have received a victim impact statement. Mr Edwards says he is self-conscious about the scar and feels it is a constant reminder of the incident. He becomes frustrated by people asking him how it occurred. For several weeks after the incident he struggled with headaches and it curtailed his ability to participate in his usual activities.

Wounding is a serious crime even when committed recklessly, because of the risk of serious injury and the need to deter others from such conduct. Here, general deterrence is most important, because, as I have said, the use of glasses as weapons in a hotel setting, usually by people affected by alcohol, is all too common. Such behaviour must be condemned. I take into account the defendant's plea of guilty and his personal circumstances, including in particular his current employment. Given that employment I have decided the public interest is best served by allowing Mr Free to remain in the community. It appears Mr Free is a hard worker. He is currently undertaking courses to better himself, not only in terms of his employment but also undertaking counselling to assist in his anger management. Community interests are best served by allowing him to continue those endeavours.

You are convicted of wounding and sentenced to 6 months' imprisonment, which sentence I wholly suspend on condition that you commit no offence punishable by imprisonment for a period of two years. I need to explain to you Mr Free that if you do commit an offence punishable by imprisonment, as well as being dealt with for that offence, you can be brought back to this Court and an application made that you serve the suspended term of imprisonment. The law is that a judge has to activate that sentence unless it is unjust. I warn you that the expression "any offence punishable by imprisonment" is exactly that - any offence - and the vast majority of offences on the statute books are offences that are punishable by imprisonment.