

STATE OF TASMANIA v DARRIN THOMAS BOND
COMMENTS ON PASSING SENTENCE

1 FEBRUARY 2022
JAGO J

The defendant has pleaded guilty on indictment to one count of causing grievous bodily harm contrary to s 172 of the *Criminal Code* and one count of assault contrary to s 184 of the *Criminal Code*. Additionally, the defendant has pleaded guilty to three counts of common assault contrary to s 35(1) of the *Police Offences Act* 1935 and one count of injure property contrary to s 37(1) of the *Police Offences Act* 1935. I have agreed to deal with the summary matters pursuant to s 385A of the *Criminal Code*.

The defendant and complainant have been in a relationship since October of 2020. They relocated from Queensland to Tasmania in January 2021 and married in March of 2021. Whilst in Tasmania the defendant and complainant lived together as a couple at a residence in Launceston. The complainant worked at the Launceston General Hospital, and the defendant was undertaking renovations on their residence. Following their relocation to Tasmania, the relationship began to experience difficulties.

Sometime between 1 March and 20 May 2021 the defendant and complainant were sitting on their back porch discussing an incident that had occurred at the complainant's workplace. The complainant disclosed to the defendant that a male colleague had touched her leg. The defendant became angry that the complainant had not told him about this previously, got up from his chair and moved towards the complainant who was still seated. He slapped the complainant to the face and grabbed her with one hand at the base of her neck. It was a momentary grab before he released her and walked away.

A short time later on the same day the complainant went to locate the defendant. The conversation returned to the work incident. The defendant again challenged the complainant as to why she had not told him about the incident earlier. When the complainant did not respond, the defendant slapped her to the face, pushed her onto the bed and stated "this is it". The defendant then knelt over her and put one hand around the base of her neck for a few seconds. These two incidents comprise two of the counts of common assault to which the defendant has pleaded guilty. The complainant fortunately did not suffer any injury as a consequence of either of these assaults.

On another occasion between 1 March and 20 May 2021 the defendant and complainant were having dinner with an elderly neighbour at their residence. The defendant left the table and the complainant heard a crashing sound. When she went to investigate the defendant grabbed her by the arm, twisted her skin and made a comment suggesting he was displeased the complainant was appearing to have a good time with "other men". The complainant suffered a bruise to her arm as a consequence of this assault. This behaviour amounts to the third count of common assault.

On an unspecified date between 1 January and 20 May 2021 the complainant was driving her motor vehicle. The defendant was in the passenger seat. The defendant tried to exit the passenger seat whilst the motor vehicle was moving. The complainant stopped the car. The defendant got out of the motor vehicle and began kicking it. He then pulled the passenger door such that it was nearly off its hinges. The door had to be repaired at a cost of \$2,100. This amounts to the count of injure property.

Overnight on 20 May into 21 May 2021, the defendant and complainant were at home. They were consuming alcohol. The defendant had consumed a considerable quantity of beer. The complainant had consumed far less. An argument developed. The complainant challenged the defendant about the way he made her feel. This angered the defendant. He punched the complainant to the abdomen several times telling her that she should not try and teach him a lesson. The accused then picked up a fire poker and hit the complainant with it across the right upper thigh. The defendant told the complainant she should "harden up" and "not whinge". The complainant said she wanted to call police. The defendant responded "women never call the police, they don't tell". The defendant then punched the complainant hard to the face.

The complainant was left with a red mark on her face. She went to bed and was experiencing considerable abdominal pain. The following morning when she awoke she had difficulty breathing and the pain in her abdomen had become more severe. The defendant drove the complainant to work at the Launceston General Hospital. Once at work the complainant told a colleague what had occurred the evening before. She was referred to the accident and emergency department. She was observed to be visibly upset but was reluctant to talk about how she had sustained her injuries. The complainant was admitted to hospital. She subsequently disclosed she had been punched to the lower left rib area and to her face. She also showed medical staff a substantial bruise on her right thigh which was approximately ten centimetres by three centimetres in size and very swollen.

Further examination disclosed the complainant had bruising to the left posterior rib below the angle of her shoulder blade. Scans were undertaken which revealed the complainant had a high grade laceration of her spleen and splenic hematoma. She was admitted to the intensive care unit. She underwent surgery on 26 May 2021 to repair the injury to her spleen. The injury to her spleen was considered life threatening. The complainant stayed in hospital for observation until 4 June 2021, following which she was transferred to Northside Mental Health Clinic for several days for management of her depression and anxiety. As a result of the injuries sustained by the complainant she has been left with 50% spleen function rendering her more vulnerable to infection and disease. She is required to undergo further routine scans to review her spleen function. Because of the hematoma on her spleen she will remain vulnerable to haemorrhage for the next six to twelve month period.

Whilst in hospital, the complainant contacted her sister and told her the defendant had punched her twice in the stomach, one in the face and had struck her with a metal rod on her thigh. Thereafter, the complainant's mother contacted police. Police attended the Launceston General Hospital to speak to the complainant. She was reluctant to speak with police and declined to make a statement. She did tell police the defendant suffers from post-traumatic stress disorder and schizophrenia and had attempted suicide in the past. She expressed concern for the defendant's wellbeing.

On 29 May 2021 the defendant was arrested. He participated in a record of interview but denied having assaulted his wife. He told police he suffered from paranoid schizophrenia and was receiving treatment from healthcare professionals. The defendant has remained in custody since that date.

The complainant made a statement to police on 7 June 2021. In that statement she outlined the physical assaults which had occurred and described how she felt the defendant's behaviour towards her had, in recent times, become increasingly controlling. The complainant said this behaviour included:

- the defendant interrogating her about her work and demanding to know everything that went on during the course of her work day.
- the defendant implying he would kill her, by saying things like "this is it" during assaults.
- the defendant threatening to place a bag over his head and "do himself in"
- the defendant driving recklessly at high speed when she was a passenger in the vehicle, causing her to fear they were going to crash.
- the defendant telling her that he would kill her one day, telling her she deserved to be assaulted, telling her that bruises showed "ownership", telling her that he wanted to hurt her and that he wanted to hurt women.
- the defendant telling her he had "won" because she was in hospital.
- the defendant telling her he wanted to commit suicide leaving her constantly worried, such that she would ring him from work so as to ensure he was safe.
- the defendant insisting he would drive her to work each day.
- the defendant burning her birth certificate on the day of their wedding telling her it would prevent her marrying again.

It is important to note the defendant is not charged with any specific offences as a consequence of this behaviour. It is evidence said to show the controlling behaviour displayed by the defendant that provides context to the relationship and explains the background that led up to the incident on 20 May 2021.

The complainant did not provide a victim impact statement. I am told she remains broadly supportive of the defendant and recognises that he suffers from post-traumatic stress disorder and schizophrenia. There is currently an interim family violence order that prohibits face to face contact but allows telephone contact whilst the defendant is in prison. Up until a week or so ago, the defendant and complainant were having very regular telephone contact, but more recently the complainant has decided she needs time and space to reflect on the relationship and determine its likely future. I am told the defendant acknowledges and respects her need for this.

The defendant is 46 years of age. He has no prior convictions of any nature. He grew up in Queensland. His childhood was a settled one and generally unremarkable. He completed school and trained as an electrician before working in that trade for a period of time. When he was 24 he joined the Navy. For a five year period he was engaged in active operations in the Persian Gulf. Whilst on active duty he was involved in an incident during an underwater dive. He was taken from the water and evacuated to a hospital for urgent treatment. Because of the injuries suffered the defendant is unable to recall the full particulars of the incident, but it marks the beginning of a period of time, during which the defendant has suffered from significant mental health conditions. Following the incident he was diagnosed with post-traumatic stress disorder and schizophrenia. He spent a considerable period of time recuperating in hospitals overseas, before being returned to Australia. He was medically discharged from the Navy in 2005. Following his discharge from the Navy he obtained work in Brisbane. He worked on the river ferries for a period of seven years. He met his first wife during that time. She was from Switzerland and subsequently he relocated to live with her in Switzerland. Whilst in Switzerland he continued to receive treatment for his mental health conditions. I am told, with professional assistance, he was able to manage his mental health conditions adequately, although there were periods when he struggled.

I am told there were no incidents of family violence in his relationship with his first wife. There came a point where the defendant decided to return to Australia. His wife did not wish to do so. They separated amicably. The defendant returned to Australia in 2019. Shortly thereafter he experienced a downturn in his mental health and was hospitalised. He spent a considerable period of 2019 hospitalised and receiving treatment for his mental health conditions. Following his discharge, he went to live with his parents, and there met the complainant who was living in the same block of units.

The defendant and complainant relocated to Tasmania in early 2021. Prior to this the defendant had been regularly engaged with a mental health team including his general practitioner and a psychologist. He maintained a regular regime in terms of his medication. He received considerable support from his family, who were well familiar with his condition. If he was minded to not medicate because he was feeling well, signs of regress were identified by his doctors or family. Upon arriving in Tasmania, the defendant saw a general practitioner and was continued on medication for his mental health conditions, but he was unable to obtain an appointment with either a psychologist or psychiatrist and at the time these crimes were committed he was on a wait list for those services. He was without the support of his extended family, and his wife's familiarity with his mental health conditions was limited by the length of their relationship.

The defendant believed he was coping well, he was busy renovating the property and he believed the medication had stabilised him. Unfortunately, he stopped taking his medication, something he had been prone to do in the past, but without the regular supervision of a psychiatrist or psychologist, the effects of his non-adherence to his medication regime went largely unnoticed. I am told this led to him experiencing, emotional dysregulation and exhibiting strange behaviours. In early May 2021 the defendant attempted suicide. He was hospitalised and subsequently seen by the CAT team, who changed his medication. Upon his release I am told there was little by way of follow up in respect to his mental health. He was meant to report to community mental health to collect his medication but did not do so.

The defendant asserts that from around this time in May, he has very little memory of what he did or how he was behaving. I am told he has no memory of the particular incident that occurred on 20 May. His wife has subsequently told him what happened and how he was behaving but he has no personal memory. I am told he was distraught when told about the harm he caused to his wife, and despite having no recall of the incident was adamant he wanted to plead guilty and take responsibility for what he did.

The defendant has been in custody since his arrest. The time he has spent incarcerated to date has been difficult. His mental health was poor when he entered prison. I am told he has seen a variety of visiting psychiatrists whilst incarcerated, and there has been conflict in terms of his treatment regime. He has found this difficult. Since incarcerated, he has experienced a downturn in his mental health and has experienced some delusions. The prison environment has also been very isolating for the defendant with his family being in Queensland. He has not received the benefit of visitors in the prison environment. I am told the defendant is bewildered and saddened by what occurred. He now appreciates he must vigilantly maintain a proper mental health regime, and follow mental health care advice for the rest of his life.

It is necessary to consider the extent to which the defendant's mental health condition contributed to the offending behaviour, and the extent to which this impairment should appropriately affect sentence. I have been provided with two reports relevant to the defendant's

mental health. One is a report from his general practitioner dated 25 November 2021. It is rather scant in detail, but confirms a diagnosis of long term schizophrenia. It suggests the defendant lacks insight into his mental health condition and has, in the past, been *"prone to go off treatment and have his condition worsen"*. The second report, dated 28 August 2021, is from a psychologist, Lyn Rogers, who treated the defendant between August 2018, and his relocation to Tasmania. In the report Ms Rogers's noted:

- the defendant has been diagnosed with schizophrenia which is a lifelong disorder requiring medication compliance and monitoring by a medical professional.
- the defendant always presented with no violent ideation towards others and consistently expressed great concern for the needs and rights of others.
- the defendant presented with symptoms including persecutory delusions (unrealistic fear of random violence by strangers), ideas of reference (extreme minimalism of possessions), avolition (low motivation), and decreased interest in social initiatives to develop close relationships with others
- the defendant reported being overwhelmed by everyday tasks.
- the central issues addressed in sessions with the defendant included self-esteem, emotional regulation, dealing with stress, misplaced shame and anxiety, questioning and rebalancing paranoid and anxious thinking styles, dealing with everyday thinking errors, mindfulness and acceptances of emotions and physical sensations, problem solving, interpersonal communication, reframing depressive and anxious thinking distortions, coping strategies for difficult thoughts and impulses, interpersonal communications and relationships
- the defendant had engaged in therapy every three to six weeks and had made significant progress in managing interpersonal relationships and communication. He had made moderate progress in self-acceptance and emotional regulation and continued to have difficulty with reacting impulsively. He only disengaged from therapy upon moving to Launceston with his partner in early 2021.
- during the course of his psychology therapy the defendant had experienced two severe depressive relapses necessitating hospitalisation.

In terms of the link between the defendant's mental health and the offending behaviour Ms Rogers opined *"it is possible that Mr Bond has isolated himself from his usual psychiatric and psychological therapy supports after he moved to Tasmania. If this has occurred then based on my past observations, disengagement from medical and therapeutical supports could reasonably be predicated to put him at great risk of medication non-compliance and a relapse in overwhelming emotional distress and cognitive distortions. This in turn, could reasonably be expected to result in Mr Bond placing extremely unrealistic demands upon himself, poor judgment, labile mood, severe insomnia and persecutory delusions. In addition separation from his parents and sister in Brisbane who are his key support system, may have enhanced Mr Bond's vulnerability to medication non-compliance and symptom relapse."*

The reports with which I have been provided do not directly address the *Verdins* principles. Moreover, the ability of Ms Rogers to be able to comment on the link between the defendant's mental health and the offending behaviour is limited by the fact, she did not see him in the months immediately preceding the incidents. What is apparent however is that the defendant suffers from a significant and long term mental health disorder. The severity of that mental health disorder in the past has seen him subject to periods of hospitalisations and seen him attempt to take his life. It is also clear that prior to the defendant's relocation to Tasmania he had lived as a law abiding person. He has no prior convictions and there is nothing before me

to suggest his prior relationships had involved any family violence. Similarly, prior to the relocation to Tasmania, it is not suggested there were any difficulties in his relationship with the complainant. His relocation to Tasmania brought about a significant change in terms of the management of his mental health condition. He did not have the benefit of his usual psychological supports. In the past when he had been non-compliant with medication, it had been noted during his attendance at therapy and rectified. In Tasmania, his non-compliance with medication went unnoticed. Given the obvious severity of his mental health condition, it is a reasonable inference that non-compliance with medication would result in a deterioration of his condition and re-emergence of symptoms including poor judgment, impulsivity and persecutory delusions.

I am satisfied that the defendant's deteriorating mental health contributed in some unspecified way to the commission of the crimes. I am very cognisant of the limitations of the reports but the objective circumstances satisfy me the defendant's mental health played some role in his offending. Up until the age of 46, the defendant had lived a law abiding life and with appropriate mental health support had managed his schizophrenia. It is not a coincidence in my view, that following his relocation to Tasmania, when he was without the benefit of appropriate mental health support, he became non-compliant with his medication, exacerbating his previously observed symptoms which in turn contributed to him behaving in a way that was out of character for him. In my view, the role his mental health condition played in the commission of the offences does reduce his moral culpability. It goes a long way to explaining why he committed the crimes, and distinguishes his behaviour from behaviour that is part of an ongoing pattern of family violence, or brought about purely by vindictiveness, animosity or jealousy. The defendant's poor mental health makes this a case where general deterrence ought to be afforded less weight in the sentencing process, although I do not think it can be completely ignored.

The defendant has expressed genuine remorse for his conduct. He has been distressed about the harm he caused to his wife. He pleaded guilty at an early opportunity, which I accept is reflective of his remorse and desire to take responsibility for his actions. He is to be given credit for that in the sentencing process.

The defendant has good prospects for rehabilitation if he is able to maintain a proper mental health regime. In her report Ms Rogers notes the defendant "*... has a lifelong mental health disorder with an organic basis. The prognosis for people living peacefully and effectively in the community with schizophrenia disorder is extremely good, providing they accept their diagnosis, are compliant with their medication and are under the care of supervision of a caring medical professional and psychological support. Mr Bond has many attributes which indicate he can live effectively in the community without being a danger to others or himself, providing stress is managed with the above supports.*" I am told that upon his release the defendant intends to return to Queensland where he will have the support of his family, the Department of Veteran Affairs and the mental health professionals with whom he has previously worked. The defendant's insight into the severity of his mental health condition, and his willingness to accept the need for ongoing mental health treatment into the future is relevant to specific deterrence. Equally, however, it cannot be overlooked that if such mental health treatment is not maintained, there exists a risk of future offending.

This sentencing exercise, necessitates the balancing of many considerations, which do not necessarily sit comfortably together. On the one hand, these are very serious crimes involving considerable violence. The State accept the defendant did not intend to cause the complainant

grievous bodily harm when he punched her twice in the abdomen, but was reckless as to that consequence. The end result of course was a life threatening injury. That behaviour was exacerbated by the fact he followed the punches to the abdomen, by striking her to the leg with a metal fire poker. His violence has left the complainant with ongoing impairment, the end result of which may not be known for some time. These serious assaults occurred in the context of a relationship which had deteriorated considerably in the preceding three months. In that time, the complainant had been subject to three other incidents of assault, and controlling and aggressive behaviour. Fortunately, she had not suffered any substantial injuries as a consequence of those earlier assaults. But it is well understood, that the harm caused by family violence, often goes far beyond physical harm. It has the capacity to adversely affect complainants in a myriad of ways.

On the other hand, as I have indicated, the offending occurred in the context of the defendant suffering from a significant mental health condition, which I am satisfied contributed to his offending behaviour. The defendant has no history of family violence, is otherwise of good character, and has made a number of positive contributions to his community, as noted in the character references I have been provided with. I have regard to those matters.

Given the absence of prior convictions, the defendant's mental health condition and his good prospects for rehabilitation, this case calls, in my view, for a somewhat individualised approach. The seriousness of the offending must be marked with a substantial period of imprisonment, but I intend to suspend a considerable portion of that period of imprisonment in light of the personal factors which pertain to the defendant.

The defendant will be convicted of all matters to which he has pleaded guilty. Pursuant to s 13A of the *Family Violence Act*, I direct that all offences be recorded on the defendant's criminal record as family violence offences. I will impose one sentence. The defendant is sentenced to a term of imprisonment of 2 years and nine months, backdated to commence on 29 May 2021 when he was taken into custody. The last two years of that sentence is suspended for a period of 3 years on condition the defendant does not commit any offence punishable by imprisonment during that period of time.

I should warn you Mr Bond that if you do breach the terms of the suspended sentence the most likely outcome is that you will be required to serve the balance of the period of imprisonment that I have today imposed upon you.