

STATE OF TASMANIA v JAMES JOHN WILLIAMS
COMMENTS ON PASSING SENTENCE

1 JUNE 2022
PEARCE J

James Williams, you were found guilty by a jury of wounding. At around 9.30 pm on 21 June 2020 you went with an acquaintance, Troy Hyne, to the home of your friend Sherry Ratcliffe. Another person, Marilyn Layton was staying with Ms Ratcliffe at the time. You and Mr Hyne had already been drinking during the course of the day. You were heavily affected by alcohol and consumed more beer and whisky after you arrived. You and the others sat around drinking and socialising before some tension developed between you and Mr Hyne. The reasons for the argument are not clear and do not matter much. It was a drunken argument. I am satisfied that Ms Ratcliffe anticipated that there may be a fight and she asked you both to go outside. As you and Mr Hyne walked into the hallway near the front door a physical altercation occurred. There was conflicting evidence about who was the instigator. You were walking in front. Mr Hyne said that you turned and confronted him. Other evidence, which I regard as more likely, suggests he grabbed you from behind. Again, it does not matter much. He is a bigger man than you. He quickly gained the upper hand and took you to the ground in some form of restraint hold, involving pressure around your throat area. He released you after you signalled him to do so.

After letting go of you he returned to the living room where he sat in a couch. You walked to the kitchen area, took a large chef's knife with a sharp point from the knife block and approached Mr Hyne with it. You stood over him as he slumped in the couch and began to prod him with the point of the knife. I am satisfied that you contacted him about five times on his upper left arm as he raised it across his body to attempt to shield himself, and at least once on the left side of his face. You stopped when Ms Layton saw what you were doing and struck you with her walking stick from behind. You took the knife, and her walking stick, and left.

Your own home was not far away and you were arrested there soon after the police arrived to look for you.

Mr Hyne suffered wounds on his left arm and face. I am satisfied beyond reasonable doubt that you caused all of the wounds to his arm. There are scratches and marks on his face which may have been caused during the scuffle in the hallway, but I am satisfied that a cut near his ear was caused by the knife. None of the injuries were serious. They were inspected by paramedics and none required any medical treatment. While the skin was broken and a very small amount of blood can be seen in the photographs, the marks can all be properly described as superficial. They are consistent with him being prodded or jabbed with the point of the knife. I am satisfied you intended to break Mr Hyne's skin with the knife. However it was not your intention to cause serious injury and you did not. The knife was large, sharp and pointed, and had it been applied with any sort of force the injuries suffered by Mr Hyne would have been much more significant. Rather, you were displaying your continuing displeasure with Mr Hyne, taunting and threatening him and seeking some sort of retribution for him having physically dominated you a few minutes earlier.

Nevertheless, it is a serious matter to threaten and injure a person with a knife. The risk that more serious harm might have been caused is obvious. But for the intervention of Ms Layton the situation could easily have escalated, especially given the level of your intoxication. I reject the suggestion that you acted in any form of self-defence. By the time you picked up and used the knife Mr Hyne posed no threat to you at all and I reject the suggestion made to the jury that you thought you needed to act as you did in order to safely leave the house.

There was nothing stopping you from just walking to the door but you stayed for the reasons I have already stated.

You are now aged 55. You are not entitled to the mitigation a plea of guilty would have attracted. You have some record for dishonesty and for alcohol related driving offences and for some anti-social offending consistent with abuse of alcohol. Your only prior convictions involving violence are from 2002, when you were sentenced to imprisonment for 6 months for two counts of common assault, trespass, resisting police and breaching a restraint order. You have served some other relatively short terms of imprisonment since then, but not for violence, and the most recent term was two months, partly suspended, in 2014. Most recently you have been sentenced for two driving offences related to alcohol and drugs. In May 2020 you were fined and disqualified for driving with THC in your body. In January 2022 you were sentenced to a wholly suspended three month term for driving in October 2021 with a blood alcohol level of 0.13. That is not a prior conviction and the suspended sentence is not breached but, combined with the earlier driving offence, it confirms the need to address your alcohol and drug abuse.

You have been assessed as unsuitable for a home detention order principally because your continued ability to live in your present Housing Tasmania accommodation is uncertain. You have a long history of polysubstance abuse. At the time of this crime you were drinking very heavily. You have used cannabis and other illicit drugs. The assessment report indicates that you have moderated your alcohol and drug use. You have a close relationship with your adoptive father, who you help to care for. You also are close to your sister but you have little other family or community support. The factors most relevant to the risk of offending are alcohol and drug use and stable housing. For that reason I will impose a sentence of imprisonment but wholly suspend it on conditions including that you do not re-offend and that you submit to a period of supervision by a probation officer.

James Williams, you are convicted on the indictment and sentenced to imprisonment for five months, wholly suspended for 18 months from today on the following conditions:

- (a) You are not to commit another offence punishable by imprisonment during that period. If you breach that condition you will be required to serve the term unless it is unjust.
- (b) During the 18 month operational period of the order you will subject to the supervision of a Community Corrections officer. The conditions referred to in s 24(5B) of the *Sentencing Act* apply to this condition and will be set out in the order you will be given. These include that you must report to a Community Corrections officer within three clear days of today.
- (c) In addition to the core conditions, the order will also include the following special conditions that you must, during the operational period of the order:
 - i. attend educational and other programs as directed by a Community Corrections officer;
 - ii. submit to the supervision of a Community Corrections officer as required by that officer;

- iii. undergo assessment and treatment for drug and alcohol dependency as directed by a Community Corrections officer;
- iv. submit to testing for drug and alcohol use as directed by such an officer;
- v. submit to medical, psychological or psychiatric assessment or treatment as directed by a Community Corrections officer.