

Richard Burke, you plead guilty to two counts of committing an unlawful act intended to do bodily harm. The crimes were committed on 19 June 2021 in the house at Zeehan in which you lived with the two victims, Wendy Geddes and Tracy Geddes. You were then aged 82. Wendy Geddes was 79 and her daughter Tracy was 64. Your relationship with them was of friendship. The factual basis on which you are to be sentenced was, for the most part, agreed. However I heard evidence to enable me to making findings about some disputed facts to which I will refer later in these reasons. For the purpose of determining those factual issues I may only make findings adverse to you if satisfied beyond reasonable doubt they have been proved.

At about 4.00 am you, armed with a hatchet, entered the bedroom in which the two women shared a large bed. They were both either asleep or lying as if they were asleep. Wendy Geddes was closest to the door. You struck the side and back of her head with the hatchet. Woken by this, Tracey Geddes ran from the other side of the bed to attempt to defend her mother. She raised her left arm in defence of herself or her mother, and you struck it with the hatchet. You then struck her to the top of her head. By then Wendy Geddes had managed to get out of bed. Despite her injuries she was able to wrestle you out of the room and disarm you. In the course of that struggle you struck her once more, this time to the chin. They forcibly took their car keys, drove away and called the police.

Wendy Geddes suffered a 2 cm Y shaped laceration to the left side of her scalp, a 4 cm laceration to the top of her scalp and a 2 cm jagged open wound to her chin. Investigations at the hospital disclosed that she had a minimally displaced fracture of the outer layer of her skull at the site of one of the lacerations. The scalp wounds were closed with staples and the wound to her chin was closed with steri-strips. There was no brain injury. She also suffered an injury to her left wrist. It was swollen. At the hospital a small undisplaced fracture of the radius was revealed. It emerged in evidence before me that the wrist injury was inflicted in the course of a struggle over the keys and so cannot form part of the charge to which you have pleaded guilty as it is particularised in the indictment.

Tracy Geddes suffered a wound to her left forearm. In the photos shown to me it appears to be relatively deep and linear. At the hospital it was closed with steri strips rather than stitches. There were two lacerations to the top of her scalp. The major wound was about 5 centimetres long and it extended down to her skull. It was closed with stitches. The second laceration was initially missed but I infer that it was relatively minor and did not require further treatment. There was also a scratch to the bridge of her nose which did not require treatment but which indicates the application of some force at that location.

By your plea of guilty to these crimes, as they are stated in the indictment, you admit that you struck Wendy Geddes with the hatchet to her head and face with intent to cause her serious injury and that she was wounded. Your plea of guilty to the crime committed against Tracy Geddes carries the admission that you struck her intending to disable her and that she was wounded. When the police attended the house they found you with a deep self-inflicted wound to your wrist. You were taken to hospital in Launceston and were interviewed a couple of days later on 21 June. You admitted that you struck the blows to Wendy Geddes intending to cause her serious injury before taking your own life. The State accepts that you did not

intend to cause permanent disabling injury to Tracey Geddes but you intended to temporarily incapacitate her when she intervened in your attack on her mother.

You were born and spent your early life in Java. You were a child at the time of the invasion at the outbreak of the Second World War. Your father was lost and you and your mother and sister were prisoners of war. Your family relocated to Canada where you became an engineer. You came to Australia in the 1970's and married but tragically your wife and two young children were killed in a car accident. You have led a largely solitary life since then moving around Australia working in various capacities. Apart from a minor conviction for assaulting your violent and abusive step father in an altercation many years ago when you were an adolescent you have no relevant prior convictions. You met Wendy and Tracy Geddes in the Northern Territory more than a decade ago and became friends partly arising from a mutual interest in boats. They are both deeply religious and perform much community work. After they moved to Tasmania and bought a house in Queenstown and you came to live with them. A bigger house in Zeehan was then purchased and you moved in with them there in 2020. Wendy and Tracy Geddes paid the deposit and the purchase costs. You paid the balance of the purchase price, about \$120,000, on the basis that they would contribute the sale proceeds of the Queenstown property once it was sold. However, by the time that occurred they had changed their minds and decided that they would buy a boat and live on it in Victoria. That decision reflected some tension which had developed in your relationship. Tracy Geddes in particular was concerned about aspects of your behaviour. This came to a head on 18 June 2021 when they informed you of their intentions. You became angry and upset. From that time, until the attack some hours later, you brooded about what you had been told and the level of your ill feeling developed so much that you decided to kill yourself, but to cause serious harm to Wendy Geddes before doing so.

There are two areas of dispute. Wendy Geddes gave evidence that as a result of the conversation about their change of plans about where to live and what to do with the money from the Queenstown house you grabbed her forcefully to her upper arms, and told her that it was "not going to happen." Tracy did not see this occur and you deny the application of any force at that time. I am satisfied that you did grab her. I found her description of the event as compelling. However I find that it makes no material difference to the sentence I am to impose. You are not charged with assaulting her. It is relevant only to the context of and reason for the argument, none of which is contentious. Counsel for the State asserts that it demonstrates that the application of force with the hatchet was not an isolated incident, but the character of the two acts is entirely different.

The other area of dispute concerns whether the blows to both women were struck with the sharp or blunt side of the hatchet. The medical evidence is in the form of reports from the Director of Emergency Medicine for the North West Region, Dr Marielle Ruigrok. Although Dr Ruigrok is the author of the reports based on the hospital records she did not examine or treat either woman. She cannot say from the nature of the injuries whether they were caused by the sharp or blunt side of the hatchet. There is some evidence which tends to support your contention that I could not be satisfied that the sharp part of the blade was used. When interviewed you told the police during your interview that you used the blunt side. You described "whacking" Wendy with the weapon from which I infer that they were forceful blows. That is consistent with the evidence of the complainants who also described forceful blows. It occurred to me that striking blows of that nature with the sharp side of the blade might be expected to cause even more serious injury. It is a weapon of substance and is weighty. However I am satisfied beyond reasonable doubt that the sharp side of the blade was

used for these reasons. I regard both complainants as truthful and reliable witnesses. Their evidence was internally consistent and, in almost every respect, consistent with each other. They did not seek to embellish or exaggerate or fill in gaps in their evidence. A Y shaped laceration like the one on Wendy Geddes' head is consistent with application of blunt force but also consistent with one or more applications of force with a sharp object. Wendy Geddes did not see the blows to her head but when Tracy Geddes intervened she gave a compelling account of seeing the sharp end of the weapon being directed towards her mother and then towards her. Wendy Geddes gave an equally compelling account of seeing the sharp side of the blade coming towards her chin when her face was struck. Whilst lacerations to the skull might be caused by blunt force I regard it as inherently implausible that the lacerations to Wendy Geddes' jaw and Tracy Geddes' forearm could be caused by the blunt surface. As I have already pointed out they are deep linear wounds. The design and weight of the hatchet naturally orients towards it being held with the sharp side directed to the target. I regard it as equally implausible that some blows could be struck with the blunt side and some with the sharp side and reject that as a reasonable possibility. Your account to the police does not cause me a reasonable doubt about this finding having regard to my view of the truthfulness and reliability of the evidence of the complainants. Also, I find myself unable to accept that in this respect your account was truthful or reliable. You understated the number of blows you struck and I am satisfied that, when interviewed, you quickly appreciated the possibility that you may be charged with an even more serious crime and fashioned your account with a mind to that possibility.

It is a matter however which has a marginal impact on sentence. The risk that more serious injury may have been caused is greater, but the injuries are as they are, and you are not charged with, or to be sentenced for, the attempted murder of either complainant. The potential for grave injury resulting from forceful blows to the head exists regardless of which part of the head of the hatchet was used.

You have been in custody since the day of the crimes. You are now aged 83. Your plea of guilty is in your favour although the dispute resulted in both complainants having to give evidence. I am satisfied that you are now sorry for what you did even though you did not admit all of what was proved against you. This crime generally justifies a sentence of imprisonment of between three and seven years and here there are two counts. A report from Dr O'Donnell indicates that these crimes were contributed to by your deteriorating mental state resulting from years of cumulative trauma and depression, fuelled by your feelings of anger, frustration and financial betrayal arising from the breakdown of your relationship with the complainants. I do not suggest that your feelings were justified but I am satisfied that they were real. Your mental impairment was illustrated by your attempt to take your own life. Your moral culpability is moderated but not eliminated as a sentencing consideration. I accept that by reason of these matters prison will be more difficult for you than for most and may impact on your mental health. According to Dr O'Donnell you remain at risk of self-harm. Nevertheless there remains a need for punishment, general deterrence and vindication of the victims. Their physical injuries have largely healed but both suffer the type of psychological impact which might be expected to result from a violent attack of this nature. I do not see it as appropriate to suspend any part of the sentence but I will allow the earliest possibility of parole.

Richard Burke, you are convicted on both counts on the indictment. I impose one sentence. You are sentenced to imprisonment for three and a half years from 19 June 2021. I order that you not be eligible for parole until you have served half of that term.