

STATE OF TASMANIA v CHRISTOPHER LINDSAY ARTHUR SULLIVAN

19 OCTOBER 2022

COMMENTS ON PASSING SENTENCE

JAGO J

Mr Sullivan, you have pleaded guilty to one count of assault contrary to s 184 of the *Criminal Code* and one count of unlawfully injuring property contrary to s 273 of the *Criminal Code*. The complainant in this matter was Ms Archie, a woman with whom you had previously been in a significant relationship. The relationship was of some standing and six children were born to that relationship. Ms Archie had primary care for the children and they spent alternate weekends with you.

On 28 January 2022, Ms Archie and one of the children became involved in an argument over chores being completed. Frustrated, Ms Archie sent you some text messages relating to the argument. One of those text messages said words to the effect of "*Come and get Blaze or he'll go to foster care*". There was a further exchange of unsavoury comments between the two of you. You rang her and screamed at her on the phone, saying things like "*If you don't cut it out, I'm gonna come and knock your head off*" and "*treat my kids with some respect or I'll put you in a hole*". Ms Archie, reasonably in my view, suggested to you that as the father of the children, you should "*Step up and take some responsibility*".

A few minutes after this abusive exchange, you arrived at Ms Archie's house. A number of the children were present at the house. When Ms Archie saw you arrive, she locked the door. You shouldered it three or four times, causing a split in the wood and causing damage to the locking mechanism. One of the children opened the door and you entered. You went up to Ms Archie and screamed at her. One of the things you yelled was "*I want to hurt you. You know I want to hurt you*". You pushed her against the wall in the hallway. She hit her head on the wall. She told you to leave the house. You grabbed her by the throat and applied pressure. You continued to apply pressure to her throat for several seconds. She had difficulty in breathing. She tripped over the couch. You let her go but then stood over her. She asked you to leave. You grabbed hold of her jaw and squeezed. She asked you to leave again and this time you did. All of this behaviour occurred when the children were in the house. It is not clear to what degree they observed the incident, but there is no doubt they would have been aware of there being some level of altercation given the yelling that was occurring, and would have been aware of the aftermath given Ms Archie's upset over the incident.

Ms Archie was left with pain and redness to her neck. The back of her head and jaw were also sore. Her windpipe was sore. When Tasmania Police attended the address, they observed her to be very distressed. Her voice was coarse, she was having difficulty in breathing and there was redness on her neck. Such injuries suggest the pressure you applied to her neck must have been considerable. Three days later Ms Archie had to attend her General Practitioner because she was still having difficulty in swallowing.

On 31 January 2022, you sent Ms Archie a text message in which you blamed her for your behaviour, claiming she "*pushed me over the edge*". Your text message showed very little insight into the wrongfulness of your behaviour, and an unwillingness to accept responsibility for what you had done. You were subsequently arrested and participated in a record of interview. You made a number of admissions. You admitted "*scruffing her*" by the throat and pushing her. You said you did not plan to grab her by the throat. A number of the comments you made were consistent with you having little insight into the reprehensible nature of your behaviour and again, you seemed willing to blame her for much of what had occurred.

I have been provided with a Victim Impact statement. Clearly Ms Archie has been significantly affected by your behaviour. She has been left traumatised by your assault. When she was unable to breathe, she thought she was going to die. She has ongoing concerns for not only her safety and wellbeing, but for that of the children. She has nightmares and experiences flashbacks. She has panic attacks and is constantly worried and concerned that there will be another incident.

You are 39 years of age. You are in a new relationship. I am told that relationship is stable and supportive and not marred by violence. The three older children to your relationship with Ms Archie now live with you. You continue to see the three younger ones. You grew up in a family where violence was commonplace. You witnessed your father being violent towards your stepmother. Your father was also violent towards you on occasion. You finished school and have been able to maintain employment in various labouring fields since. You have experienced drug and alcohol issues in the past.

You have significant prior convictions for driving offences and dishonesty. You have received both actual and suspended periods of imprisonment for such offending in the past. In 2008 you were convicted of breaching a Police Family Violence Order and injuring property. That

related to Ms Archie. In August 2008, you were sentenced by the Burnie Supreme Court for a matter of Criminal Code Assault. It was not a family violence incident. It resulted in a period of four months' imprisonment, wholly suspended, being imposed. In 2013, you were convicted of common assault. This was committed against Ms Archie. It involved you pushing her backwards whilst she was pregnant. Since that incident, save for some traffic matters, you have not been in trouble with the law.

I am told that over the past 10 years or so, you have been trying very hard to make positive changes in your life. You have addressed the drug and alcohol difficulties you were experiencing. You are in a stable relationship. You have some casual employment. Since this incident occurred in January 2022, you and Ms Archie have continued to co-parent the children. There have been no further episodes of violence. There is a Family Violence Order in place to protect Ms Archie, which allows for communication via text message in respect to the children. I am told that you have been abiding by the terms of this Family Violence Order.

Your plea of guilty has come at an early stage and that is to your credit. The plea has considerable mitigatory value because it has saved the complainant the ordeal of giving evidence about what was obviously a traumatic and upsetting event. I am told you have reflected on your behaviour and now appreciate how appalling it was.

Family violence crimes are always serious. They inherently involve a breach of trust and are typically committed against vulnerable complainants. Ms Archie is the mother of your children. She was entitled to be treated respectfully. Your behaviour is aggravated because of the presence of the children when the incident occurred. It is well understood that exposing children to family violence can have significant deleterious effects upon them. The act of choking is particularly bad. It is an inherently dangerous act. It can cause the loss of consciousness and death very quickly, even if those consequences are entirely unintended. Underlying injuries can often be caused by pressure applied to the throat, which may not manifest immediately. It is fortunate the complainant suffered no lasting physical impairment, although she was in discomfort for several days.

The courts have emphasised on many occasions the need to condemn such violence. In sentencing any family violence matter, general deterrence, denunciation, punishment and protection of victims are paramount sentencing considerations.

It is noteworthy that up until this incident, there had been a significant gap in your criminal offending. That is consistent with the efforts, I am told you have been making. It is relevant to rehabilitation, the likelihood of reoccurrence and the weight to be given to specific deterrence. In my view, because of the need to send a very clear message that family violence will not be tolerated, and those who commit family violence can expect to receive harsh punishment, a term of imprisonment must be imposed. However, because of your personal circumstances and, in particular, the efforts you have made in more recent times to stabilise your life, I am going to suspend the period of imprisonment I intend to impose.

I make the following orders:

- Mr Sullivan, you are convicted of both crimes to which you have pleaded guilty.
- You are sentenced to a period of 12 months' imprisonment. The execution of that period of imprisonment will be suspended for a period of two years on condition that you not commit any offence punishable by imprisonment during that time.
- Pursuant to s 13A of the *Family Violence Act*, I direct the crimes be recorded on your criminal record as Family Violence offences.
- Pursuant to s 36 of the *Family Violence Act*, I make a Family Violence Order for a period of five years, **[TERMS REDACTED]**
- I make a compensation order in favour of Housing Tasmania in an amount to be assessed.
- I make a compensation order in favour of Elysha Joy Archie in an amount to be assessed.

I need to explain to you Mr Sullivan, that if you breach the conditions of the suspended sentence it is highly likely that you will be required to serve the period of imprisonment just imposed, unless a court considers it unjust. If you were to be foolish enough to breach the terms of the Family Violence Order that I have just made, it is extremely likely that you would be required to serve the period of imprisonment imposed.