

Mr Cook I am sentencing you upon your plea of guilty to a charge of assault. I am also sentencing you on a single count of destroying property, an iPhone and am doing so pursuant to s 385A of the Criminal Code.

The complainant in this matter is Nikita Paul. She was aged 33 years at the time. She has children from previous relationships but they were not present at the time of this offending.

You had been in a de-facto relationship for approximately two years and were residing together. The complainant was seven weeks pregnant at the time of the assault, her pregnancy an aggravating matter in sentencing.

You present with a relevant family violence history. In 2021, you were sentenced to a term of imprisonment for family violence offences involving this complainant. As a result of that, you were subject to a period of electronic monitoring. You were released from these conditions in February or March 2022..

On Friday 8 April 2022, the complainant asked you to move out of the residence. She felt that the relationship was no longer tenable. You refused to do so and continued to live there.

On Sunday 10 April 2022, you were both at home. You spent the afternoon arguing about the complainant's wish for the relationship to end and for you to leave her house. This escalated to a physical struggle inside the bedroom where you took her mobile phone and smashed it on the end of the bed. This caused the screen to crack and the complainant threw the phone at the back at you afterwards.

Just before 6:45 p.m. the complainant was in the kitchen when you entered the room. You were holding a green handle and the complainant believed that you were going to hit her with it. She took hold of the handle to try to stop you but you overpowered her. You struck her to the face with it, making contact with her left eye.

The complainant intended to leave the residence and went to her vehicle. She noticed that she had vaginal bleeding so she returned inside and went to the bathroom.

From there she shouted to you words to the effect of “*look what you have done*” She threw some toilet paper out of the door and onto the floor. You responded by kicking the door, causing it to strike the complainant to her forehead.

When the complainant went to leave the residence again you obtained a fuel canister from outside the property. As she was walking down the driveway you threw the accelerant (believed to be petrol) at her. The accelerant hit the complainant to her back and hair, causing her skin to sting.

She left the residence in her vehicle. She waited nearby for about 5 minutes apparently concerned that you were going to set fire to her residence. After she observed no signs of smoke she returned and found you had left. She then went to her cousin’s residence nearby, where police were called.

Tasmania Police attended upon her and observed bleeding and swelling around her left eye. She was visibly distressed and smelt strongly of the accelerant. She was taken to the Royal Hobart Hospital by ambulance for treatment and provided a video statement to police.

At the same time, police forced entry to the residence but you were not found there.

The handle was located by police concealed in a camper van in the rear yard of the residence. It was identified as a green mattock fibreglass handle, approximately one metre long.

At approximately 11:30 p.m. police attended another address in an attempt to locate you. They knocked on the front door and you answered. You were placed under arrest and escorted to the police divisional van. Whilst walking to the van you became verbally aggressive and argumentative. Other officers assisted to place you into the van and he was conveyed to the Hobart Police Station.

You agreed to participate in an electronically recorded interview. Under caution you made some admissions including:

- a That you were in a significant relationship with the complainant. You said that she had been hormonal and in her bedroom for the last few days, barely speaking to you.
- b You said “*I plead guilty for the door...I plead guilty for the phone*”.
- c You admitted to destroying the complainant’s phone but you denied smashing it.

- d You stated that the complainant hit herself in the head. You claimed you were both holding the fibreglass handle and you let go causing her to hit herself with it.
- e You revealed the location of the handle and stated that you put it there after the complainant had attempted to hit you with it.
- f You admitted to throwing a drum of fuel at her but claimed he did not mean to get any fuel on her.
- g You admitted to kicking the door but claimed you did not know where the complainant was at the time.
- h You said that you intended to “*plead insanity..*” and that you are suffering from a mental health condition though you have not been formally diagnosed with anything.
- i You said that you were intending to smash items in the house at which point the complainant had tried to stop you. She did this by taking hold of the mattock handle as you let go and you repeated your claim this caused her to hit herself on the head. You said to the police “*trust me mate, if I wanted to belt her I would have belted her fucking 12 months ago when she put me in gaol last time*”.

Following interview, you were charged, processed and detained for court.

You have been in custody since your arrest on 10 April 2022, having been refused bail in the Magistrates Court. An application for family violence order was lodged and an interim order issued on 11 April 2022.

As a result of this incident the complainant sustained bruising to her face, a small cut and swelling to her forehead (from the door striking her), and a large cut and swelling to her left eye (from being struck with the handle). She was admitted to hospital for one night while she underwent scans.

The Crown makes application pursuant to s 36 of the *Family Violence Act* 2004 for a family violence order to be made for the protection of the complainant. The order sought is in terms of the family violence order issued on the 11 April 2022, for a period of 12 months. I make that order

The complainant’s mobile phone was destroyed and has not been repaired. Application is made pursuant to s 68(1) of the *Sentencing Act*, 1997 in favour of Nikita Kathleen Paul in an amount to be assessed. I make that order.

The Crown makes application pursuant to s 27(4)(a) of the *Sentencing Act* to breach a suspended sentence imposed on 13 July 2021 in the Hobart Magistrates Court. There you were sentenced on complaint 1439/2021 in respect of common assault and a charge of destroy property to ten months imprisonment of which two months was suspended on conditions. I activate that sentence backdated to commence on 15 April 2022.

This is a matter to which s 13A of the *Family Violence Act*, 2004 applies and the conviction will be recorded as a family violence offence.

I have regard to your personal circumstances in sentencing you, including your apparent participation in programs directed to assess your aggression and your poor anger management skills. I take account of that as evidence of you having developed some insight into your offending behaviour.

I note too that you have operated a small business which is in abeyance whilst you are in custody, a significant setback.

I take account of your plea of guilty and discount the sentence for the utilitarian benefit which accrues thereby.

The matters relevant to sentencing you include the need for specific and general deterrence, denunciation and vindication of your victim. As I have said you have a poor record of family violence and that necessitates a sentence which addresses personal deterrence as a significant sentencing consideration. General deterrence is also important because offences such as this are not easily detected. As a result it is necessary to impose a penalty which serves to send a message to the community before anyone is minded to act in this way.

In my view this was an appalling example of this category of offence and having regard to your history the only appropriate sentence is a term of imprisonment.

In respect of the charge of assault I sentence you to 18 months' imprisonment with a non parole period of 12 months. I backdate that sentence to 15 April 2022. So in part it runs concurrently with the activated suspended sentence. I do that in order to take account of the totality principle. The non parole period is intended to encourage your continued efforts to deal with your aggressive behaviour and to rehabilitate. The Parole Board will require evidence of that progress before granting parole.

In respect of the damage to property charge I record a conviction.