

STATE OF TASMANIA v CHELSEA PATRICIA DOREEN SMITH

9 NOVEMBER 2022

COMMENTS ON PASSING SENTENCE

JAGO J

Ms Smith, you have pleaded guilty to one count of wounding. At approximately 6.00 pm on 23 November 2019, you struck a female who lived in your neighbourhood, over the head with a large metal pole. The blow caused a full thickness wound to the left frontal region of her head. It was closed with five surgical staples. It seems you were of the belief that the victim had said some inappropriate things about one of your friends, and had posted some inappropriate messages on a social media platform. As a consequence, you challenged her and when she denied any knowledge of your claims, you struck her in the manner I have described. There was absolutely no justification for what you did.

You were subsequently arrested. You initially denied any involvement in the matter but later during the charging process, admitted to police that you had struck her with the pole. You claimed you did not mean to hit her in the head. You spent 24 days in custody following your arrest.

At the time of the incident, you had no relevant prior convictions for violence although you did have some matters that were dealt with in the Youth Justice Court for assault, common assault, resist police and assault a police officer. Since the commission of this crime, you have been before the Magistrates Court for a substantial number of matters involving dishonesty, driving, drug and bail offences.

You are now aged 27. You have endured a very difficult upbringing. Your mother died when you were five. Your father had always lived a criminal lifestyle and has been in and out of gaol. You have lived transiently for most of your life, and have largely been without family support and guidance. When you were 15, you became involved in an abusive relationship and you fell pregnant. It was a difficult time, but to your credit you were able to maintain the care of your child. Your partner ended up going to prison. In 2018, you became involved in a far more positive relationship. I am told there was no violence in that relationship and it was a caring and supporting one. Your partner took on a parenting role in respect to your daughter. Tragically, he was killed in a motor cycle accident in the lead up to this incident. Thereafter, you turned to drugs in an endeavour to cope with your grief. I am told you were using drugs at the time the wounding incident occurred.

During the plea in mitigation that was originally presented on your behalf, I was told that since your release from custody on this matter, you have been making a concerted effort to abstain from drug use. I was persuaded to order an assessment for a home detention. You failed to attend your initial appointment with Community Corrections. I was informed that was because you had become involved in a relationship, which quickly turned violent, and you were the victim of that violence. Because of the behaviour of the person with whom you were in a relationship, you were prevented from attending the Community Corrections appointment. In light of this information, I was persuaded to give you a second chance to attend at the assessment appointment. Again you failed to attend. You also, during that period of time, breached your bail conditions and have been remanded in custody since 27th October last. It is now explained to me that during this period of time, you returned to drug use because of the difficulties you were experiencing as a consequence of the violence you were subject to during the relationship. Your mental health was also deleteriously impacted.

The time you have since spent in custody has caused you to reflect upon the difficulties you were experiencing because of your drug use, and I am told you have again re-committed to your rehabilitation and remain hopeful of addressing your drug addiction in the longer term. Whilst I have some scepticism about that, I do not consider, given your lack of relevant prior history that I should, at this point, ignore completely in the sentencing process, your prospects of rehabilitation.

This is a serious case of wounding. Simply because you had heard a rumour about the complainant's behaviour, you decided to take matters into your own hands and confront her. When you did not receive the response you wanted, you picked up a metal pipe and struck her to the head. It was an intentional wounding. Your actions were completely unjustified and had the potential to cause serious harm. Resort to violence to settle a grievance, real or perceived, is never acceptable and such behaviour must be condemned by the courts. Striking someone to the head with a weapon is obviously a dangerous thing to do. Blows to the head can easily result in serious injury and the consequences can be quite debilitating, sometimes even life threatening, even if they are entirely unintended. It is fortunate that the complainant did not suffer a more severe injury and that, in a physical sense, the wound resolved without complications.

I take into account your plea of guilty. It could not be said to be an early plea, but I accept there were some legitimate reasons associated with the delay in resolving the matter. Your plea of guilty facilitates justice and has saved the complainant having to give evidence about what undoubtedly was a most unpleasant experience for her.

In all of the circumstances, I have determined that an appropriate sentence is a period of imprisonment. That reflects the need for general deterrence, the need to punish you and also reflects the seriousness of your behaviour and the harm you caused the complainant. Having regard, however, to your personal circumstances, the absence of prior convictions for violence prior to the commission of this crime and in an endeavour to encourage your rehabilitation, albeit having noted the scepticism that I possess about that, I have decided to suspend a part of the sentence I will impose.

Ms Smith, you are convicted of wounding and sentenced to six months' imprisonment, backdated to commence on 3 October 2022 to take into account time already served in custody. The last three months of that period of imprisonment will be suspended for a period of two years on the condition that you are not to commit any offence punishable by imprisonment during that time.

I need to explain to you, Ms Smith, that if you do commit any offence punishable by imprisonment - and I emphasise the word "any" - you can be brought back to this court and an application made that you serve that part of the period of imprisonment I have suspended. The law is that a judge must activate that sentence unless it is unjust to do so.