

The defendant, Shane Eric Jackman, aged 37 at the time of this offending has pleaded guilty to one count of causing grievous bodily harm. The defendant committed this crime in company with a friend, James Alan Cole, who was aged 33 at the time.

The complainant, Clayton John Glasgow, aged 30 at the time was the partner of Cole's ex-partner, Gemma Reynolds. Prior to this offending, the defendant and the complainant were unknown to each other.

During the evening of 3 January 2021, Cole contacted the defendant and asked him if he would go with him to the complainant's house. The defendant became aware that there might be a physical altercation and that Cole wanted the defendant to come for assistance. They arrived at around 10.00pm.

The complainant opened his door. The defendant was about a metre or so behind Cole, who said "*where is Gemma's stuff?*" The complainant turned his head slightly to look into the lounge room and said "*there is nothing here*". Before he could turn back to face the door, Cole punched him hard to the back of the head. The impact of the punch knocked the complainant onto the lounge room floor.

Cole entered the lounge area and began punching and kicking the complainant while he was still on the ground. The complainant covered his face as best he could, however Cole continued to punch and kick him to the head. Eventually, Cole ceased hitting and kicking the complainant, who by this point was bleeding heavily from a number of cuts on his face and his face was severely swollen.

The defendant and Cole left the scene, leaving the complainant in his lounge room. When police answered a call for help by the complainant, they observed him to have significant facial injuries. He was taken to hospital by ambulance.

Police later arrested and interviewed Cole who stated that he went to collect his ex-partner's belongings but he went stupid. He said that his friend, the defendant, was there but he did not do anything, he was just there to make sure Cole did not go "over the top", which he obviously did I might add. He was just standing outside of the door watching. Cole said that he did not think that it was going to happen like that, that he didn't know who was going to be there, that the complainant was a lot bigger than him and that he did not want to go by himself.

He told police that he took the defendant as he is a "pretty big fella". Cole said that the defendant did not say anything to anyone during the incident. Cole said that he, Cole, had experienced pure rage and totally lost control.

The defendant was later arrested and interviewed. He stated, amongst other things, that he was there in case there was someone else there, or if Cole got bashed. And, he said that if Cole took it too far he would have stopped him as well. Something he obviously did not do, although, in fairness there was no suggestion that he ought to have foreseen Cole's immediate rage and complete loss of self-control. In my view, that is an important sentencing consideration.

As a result of the offending, the complainant suffered a swollen peri-orbital area; a laceration above the right eyebrow (requiring seven sutures); a laceration to the left cheek (requiring seven sutures); a laceration to the chin; a puncture wound to the upper lip; jaw misalignment; bruising to both eyes and cheeks and a fractured sinus bone.

The defendant has a prior convictions for common assault, which occurred on 6 August 2004 and 27 October 2007, respectively. Otherwise, has no relevant offending before or since these events.

I have read a victim impact statement from the complainant. He has suffered financially as a result of losing a month off work due to his injuries. After the assault he felt depressed and was anxious to leave the house to go to work. He has nightmares regularly, which disrupt his sleep which in turn affects his ability to function throughout the day. His relationships have also been affected. Family and friendships and work relationships became strained after the assault due to his irritability and fear and anger.

I have had the benefit of a pre-sentence report on the defendant. I am informed by that report that he was born to the union of Elaine Jackman and William Jackman and that he disclosed a troubled childhood, advising that he had been the victim of considerable violence at the hands of his father and has witnessed his father acting violently towards his mother. He advised the nature of his upbringing had reinforced the notion that violence is an appropriate response to conflict.

The defendant is now aged 39 years old. He is self-employed and has been running his own joinery and windows business for the past seven years. He has a Certificate 3 qualification in construction. He currently works predominately at home, preparing quotes and manufacturing custom table tops, coated timber and resin. He also works to assist his mother in her rural property at Campbell Town with fencing.

He has six children between the ages of 21 and 10 years old and a first grandchild born this year. He sees his 10 year old daughter every second weekend.

I am told that the defendant has struggled with guilt in respect of the injuries caused to the complainant and the role that he played in assisting Cole by not intervening earlier in the assault. He does assert that he told Cole to stop the assault after some injuries were inflicted upon the complainant and suggest that they leave the property. That is not disputed by the State and it is an important distinction between the defendant and his co-accused and it is an important fact in sentencing.

I am told that notwithstanding his original perception that his role was not pivotal, the defendant regrets not having an insight to the seriousness of the situation. He admits that his presence allowed the situation to escalate, resulting in the serious assault of the complainant.

I am told that the complainant's Victim's Impact Statement has had a salutary effect on the defendant and he has given reflection as to his role and the far reaching effects of the offending. He and Cole are no longer associated.

The defendant's role in the commission of this crime, while peripheral in one sense, amounts to serious offending against the complainant in his own home, as, although importantly, he was not to know, as I have said, that Cole would fly into an immediate violent rage, and the attack was, it seems, quite short lived, it was within the defendant's power to at least try and prevent

any significant injury to the complainant beyond the first punches inflicted by Cole and he failed to do so, at least physically.

In my view, his involvement warrants a period of imprisonment, however in all the circumstances, and given his lack of recent or similar offending I will on this occasion impose a suspended sentence. In reaching this view, I also note that the defendant is not considered suitable to perform community service and Community Corrections have reasonable concerns as to the imposition of a home detention order.

The defendant is sentenced to 15 months imprisonment, which sentence I wholly suspend for a period of two years on condition that he commit no offence punishable by imprisonment for a period of two years from today.