

STATE OF TASMANIA v CURTIS PETER REEVE
COMMENTS ON PASSING SENTENCE

18 NOVEMBER 2022
JAGO J

Curtis Peter Reeve, you have pleaded guilty to two counts of assault contrary to s 184 of the *Criminal Code*. You have also pleaded guilty to four counts of breach of family violence order, contrary to s 35(1) of the *Family Violence Act*. I will deal with those matters pursuant to s 385A of the *Criminal Code*.

The complainant in this matter is Emma Rose Smith. At the time of the offending, you and Ms Smith had been in a relationship for approximately 12 years. You lived together. On 23 December 2021, you were served with a Family Violence Order. One of the conditions was that you not directly or indirectly threaten, harass, abuse or assault Ms Smith.

The first incident of assault occurred on 20 June 2022. You and the complainant were at home. You also had a friend there. You and your friend were consuming alcohol. At one point, you entered the bathroom and the complainant followed you. You forced her onto the floor and pulled her hair, you then grabbed her by the shoulders with your hands and squeezed hard. You hit her to the side of her head with an open hand. During the incident, you were calling her a "slut". This abusive comment amounts to a breach of the Family Violence Order. The complainant kept asking you to stop. Eventually, you did so and she left the residence.

The second incident occurred on 1 July 2022. Again, you were consuming alcohol. This time you were at a friend's house. You telephoned the complainant and asked her to come and collect you. Again, you called her a slut during this conversation. That is a breach of the Family Violence Order. The complainant arrived to collect you. When she got out of the car, you again called her a slut. You pulled her hair and hit her around the head, which caused her glasses to fall off and break. The complainant ended up on the ground. You grabbed the complainant around the neck. The particulars of the assault up to this point are accepted by you. The State allege you then choked Ms Smith. You dispute this aspect of the assault.

Evidence was taken during the sentencing hearing as to this particular. Ms Smith was called to give evidence. In evidence she said you hit her around the head and "scruffed" her. She said you scruffed her by the front of her black puffer jacket and did not touch any part of her body. This was inconsistent with what she had told police and significantly was also inconsistent with what you admitted you had done by your plea of guilty and acknowledgement of all particulars other than the choking. Ms Smith accepted that she had told police, shortly after the incident, that you had grabbed her around the throat with both hands and started to choke her, and that she was struggling to breathe.

Ms Smith acknowledged she had changed her version of events but denied she did so to protect you. She agreed that on 2 July 2022, she had made a Statutory Declaration indicating that she wanted to withdraw her allegation of assault. She accepted that in her withdrawal statement, she did not claim that what she had originally told police about the assault was false. In cross-examination by your counsel, Ms Smith agreed with a proposition put to her that when she had made her original statement to police, she was upset about what had occurred and had simply agreed with what a police officer had suggested to her.

I reject completely Ms Smith's claim that she simply agreed to a suggestion made to her by a police officer. Having had the benefit of observing Ms Smith give evidence, it was blatantly obvious to me that Ms Smith was tailoring her evidence to assist the defendant. The original

statement provided to police describes her struggling to breathe, which is consistent with her being choked. The conclusion Ms Smith is tailoring her evidence to assist the defendant is enhanced by the fact her account of the incident on 1 July was so diluted as to be inconsistent with what the defendant acknowledged had occurred. I am satisfied beyond reasonable doubt that the defendant choked Ms Smith and I will sentence on that basis.

As a result of the assault, the complainant suffered bruising to her left eye, left cheek, her jaw and an abrasion to her right eye brow. I have seen photographs of these injuries. The injuries resolved without medical intervention.

When both these assaults were committed, the defendant was subject to a period of suspended imprisonment. On 8 March 2022, Blow CJ sentenced the defendant in respect to a charge of *Criminal Code* assault to eight months' imprisonment, the execution of which was wholly suspended on condition that he must not commit any offence punishable by imprisonment for three years. A Community Correction Order with an operational period of three years was also imposed. The first crime of assault was committed a little over three months after the imposition of the suspended sentence. The second assault was committed only a matter of 11 days later. Clearly the imposition of the suspended period of imprisonment did not achieve its intended purpose of curbing the defendant's use of violence.

The defendant is now aged 30. He pleaded guilty at an early stage, although I note the fact he disputed a particular of the assault charge meant the complainant had to give evidence. The defendant has a good industrial record. Until his remand, he worked for a dairy company in Wynyard and is well regarded in his position of employment. He owns his own home, subject to a mortgage, together with some investment properties, and is financially secure; although I am told that his financial security is jeopardised by his current remand in custody. He is currently on leave from his employment but once his leave entitlements expire, he will be terminated if he is not in a position to return to work. Of course, the defendant was in that position of employment when he received the suspended period of imprisonment. He must have appreciated that if he breached the terms of the suspended period of imprisonment he would, by his own actions, be placing his liberty and therefore his employment in jeopardy. He chose not to avail himself of the opportunity that was extended to him by the imposition of the suspended sentence and instead committed two further acts of violence upon his partner within a very short period of time of that sentencing order being made. In my view, there is no basis upon which I could properly conclude it is unjust to activate the suspended period of imprisonment. Indeed, it would be to make a mockery of that sentencing order if I did not activate it given the nature and timing of the breaching offences.

I take into account the character references and YFCC report which were provided on behalf of the defendant. They suggest the defendant is generally well regarded, is remorseful for his behaviour and willing to undertake counselling to address his alcohol consumption and his behaviour when affected by alcohol. It is hoped he follows through on his stated intentions, although I note it seems very similar submissions were made at the time Blow CJ sentenced the defendant. His Honour stated in his Comments on Passing Sentence, "*He has obtained advice from a counsellor about his alcohol consumption and anger management*". It seems the defendant did not put into practice the advice he received.

I have read and considered the complainant's Victim Impact Statement. In my view, it is reflective of the complexities of family violence. Family violence can impact complainants in a myriad of ways – many of which may not be understood nor appreciated at the time. Despite

the defendant's violence towards her, the complainant feels financially dependent upon the defendant. She wishes to pursue her relationship with the defendant and remains supportive of him. I take that into account, although it is far from the most pertinent of sentencing considerations.

Family violence crimes are always serious. They inherently involve a breach of trust and are typically committed against vulnerable complainants. The act of choking is particularly bad. It is dangerous and can cause the loss of consciousness and death very quickly. Underlying injuries can often be caused by pressure being applied to the throat, which can lead to ongoing difficulties over an extended period of time. Courts have emphasised on many occasions the need to condemn family violence. It is all too common and a matter of concern to the community. In sentencing such matters, general deterrence, denunciation, punishment and protection of victims – irrespective of their attitude – are paramount sentencing considerations. Clearly, given the defendant's history of violent offending, specific deterrence also has a role to play in this sentencing exercise.

I make the following orders. The eight month period of imprisonment imposed on 8 March 2022 is activated and I order that the defendant serve it. That period of imprisonment will be backdated to commence on 2 July 2022 when the defendant was first remanded in custody. I order the defendant not be eligible for parole until he has served one half of that sentence. In terms of the application to breach the Community Corrections Order, I cancel the order without substituting another order. The Community Correction Order was directed at complementing the suspended sentence I have just activated. I see no purpose in substituting another sentence.

In respect to the new matters, the defendant is convicted of all crimes and offences to which he has pleaded guilty. In respect to the four counts of breach of Family Violence Order, I make no further order. In respect to the two counts of criminal code assault, I impose one sentence. The defendant is sentenced to six months' imprisonment. To take account of totality, two months of that period of imprisonment will be served concurrently with the eight month period of imprisonment just activated. The remaining four months will be served cumulatively to that period of imprisonment. I order the defendant not be eligible for parole until he has served one half of that sentence.

I order that these matters be recorded as family violence offences pursuant to s 13A of the *Family Violence Act* 2004. I make a compensation order in favour of Emma Rose Smith in the amount of \$300.00.