

Glenn Barnard, you were found guilty by a jury of committing an unlawful act intended to do bodily harm. Consistent with the verdict of the jury it is for me to find facts for sentence. I may only find facts adverse to you if I am satisfied they have been proved beyond reasonable doubt. On 2 April 2021 Baily Lethborg had his 18th birthday party at his home in George Town. It was an unruly affair and the police were called more than once. Sometime after midnight Mr Lethborg was struck in the back of the head by a male guest at the party. That person then left for his home in a unit complex in Friend Street not far away. By that time it was after 1.00 am. Mr Lethborg followed him, drunk and angry that he had been struck. He was accompanied by some of his friends. When they arrived in the driveway outside the man's unit Mr Lethborg shouted at him to come out. You lived in the unit directly across the driveway. You were inside with your partner but heard the noise. You came out of your unit holding a weapon which you kept by the front door, a wooden batten with a metal bayonet shaped blade fixed to one end with wire and tape. Your account of what then happened was given during an interview with the police. You admitted that you struck Mr Lethborg with the weapon but claimed that the blade was not attached to it at the time. You then struck him again with the wooden part of the weapon to his body and legs. The jury was satisfied and I find that you struck Mr Lethborg with the intention to disable him and inflict bodily injury of such a nature as to cause or be likely to cause serious injury to health, thus amounting to grievous bodily harm. Despite your claim to the contrary, I am satisfied beyond reasonable doubt that the blade was attached to the baton when you first struck Mr Lethborg. Blood and DNA strongly matching his was found on the blade when it was recovered from inside your unit. It had broken away from the baton but I find that this happened after you struck Mr Lethborg with it. His wound was so deep and so severe that it could not have happened unless he was struck when the blade was attached. The injury involved a complete laceration of the right ulnar, median and radial nerves, the ulnar artery, and the multiple muscles and structures in the forearm which control the hand. According to Dr Poppa, the surgeon who operated on Mr Lethborg to repair the wound, the wound extended at one point completely through his forearm.

To strike a person with a weapon of that nature with enough force to cause such a wound must have involved an intention to cause serious and disabling injury. Although the issues are related, the main question at trial was whether the force you applied to Mr Lethborg was justified by self-defence. A majority of the jury rejected that claim. I am satisfied that not only was the amount of force you used completely unreasonable in the circumstances, but you did not act defensively. I reject your evidence that Mr Lethborg or someone associated with him knocked on your door or came to your door. They were not there looking for you and there was no evidence that they knew you lived there. To get to your door it was necessary to walk past the front of your unit and through a gate in the high front fence adjacent to the driveway. Neither Mr Lethborg nor anyone with him had any reason to do so. It was understandable that you were concerned about such an intrusion into the driveway outside your unit at that time of the night but there was no need at all for you to have gone outside, particularly armed with a weapon of that nature. I do not believe your claim that you thought the people outside might come into your unit and thereby pose a threat to you and your partner. I found Mr Lethborg to be an honest witness. He made frank concessions about how drunk he was and his violent intention towards the person who had struck him. I do not condone any of that. However I accept his evidence that when you emerged from your unit he told you to in very forceful and impolite terms to go back inside because the dispute had nothing to do with you. His evidence

is corroborated by his brother Cory Sherriff who also impressed me as a straightforward witness. I find that your actions were motivated by your anger about the disturbance and how Mr Lethborg responded to you, contributed to by the fact that you already had a low opinion of Mr Lethborg through previous run ins with him. I also disbelieve your claims that you were struck with a bottle thrown at you and that Mr Lethborg confronted you with a broken bottle. There was no evidence at all other than from you about thrown bottles and the police found no bottles or broken glass. I also reject your claim that you were surrounded by Mr Lethborg's companions. These were things you said to the police which were not true, to attempt to justify your conduct. You advanced on Mr Lethborg holding the weapon. You struck him as he backed away from you, unarmed, offering no threat to you. His account is supported by the physical evidence. To approach him as you did you had to walk out the gate and around the front yard fence to which I have already referred. The wound on Mr Lethborg's arm immediately bled profusely, but the long blood trail did not commence until half way down the driveway well away from your unit. The nature of the wound is consistent with Mr Lethborg's claim that he put his arms up to protect his head as you swung the weapon at him. I am unable to determine, one way or another, whether he was standing or on his back on the ground when the major injury was inflicted but it makes no difference. At least some of the violence was inflicted when he was on the ground. There were abrasions to his abdomen and legs.

You are now aged 40. You spent most of your life in Victoria before coming to Tasmania in about 2017. You have a record for violent offending in both States which was detailed by Porter J when you were sentenced for an aggravated assault in August 2021. It is not necessary to repeat all of what his Honour said about your record and your personal circumstances but some should be noted. I also have a copy of a drug treatment order assessment report prepared in August 2021 which outlines your circumstances. You come from a background of disadvantage and limited education and have been exposed to violence from a young age. You have been a heavy user of illicit drugs including methylamphetamine for a long time. You suffer from anxiety and adult ADD. You suffer drug induced psychoses with a strong suggestion of underlying mental health issues but I have no evidence that these conditions played a part in this crime. You have a back injury which apparently requires surgery. You have children including with your current partner but none are in your care. Over the last few years you have served a number of terms of imprisonment. You receive some support from your father.

The injuries suffered by Mr Lethborg to his torso and legs quickly healed. The injury to his forearm is a different matter. It had, and will continue to have, a major effect on his life which is likely to be permanent. I have read his victim impact statement. Post-surgery he was confined to bed for four months. His education was disrupted. He has been left with loss of sensation and reduced function in his right hand and wrist. Not only is this difficult for him psychologically, but it will mean that his opportunities for employment will be restricted. It is often appropriate to treat assertions in victim impact statements with circumspection but what was said by Mr Lethborg is entirely consistent with what is to be expected to result from an injury of this severity and, from my observations and impressions of him giving evidence, may well be understated.

Although there is no hard and fast rule, this crime ordinarily attracts a term of imprisonment in the range of three to seven years. You are not entitled to the mitigation a plea of guilty would have attracted. This was not a planned or premeditated crime. You were confronted with a potentially stressful situation. Mr Lethborg acted in an annoying and provocative way

but your response, although impulsive, was violent and unjustified. You decided to pick up a weapon which obviously had the capacity to cause serious and lasting injury and you used it to do just that. It is my duty to make clear the consequences of serious violent crime in the hope that it will encourage you and others to think better of it in future. It is necessary to condemn and punish your conduct. To take account of the periods you have already spent in custody and not attributed to another sentence it is agreed that the term I impose should commence on 20 July 2022.

Glenn Barnard, you are convicted and sentenced to imprisonment for three and a half years from 20 July 2022. I order that you not be eligible for parole until you have served half of that term.