

You pleaded guilty to a single count of wounding contrary to s 172 of the *Criminal Code*.

You and the complainant, Leon Bateman resided together as housemates for approximately 1-2 weeks up until 23 February 2021.

The residence was leased by you.

The complainant was not on the lease and was permitted to reside at that residence by agreement with you. This included an agreement whereby he would make a contribution towards rent.

On the evening of the 23 February 2021, he arrived home at around dinner time. You was already present in the home.

You had been consuming alcohol.

Soon after the complainant arrived home an argument began in the kitchen area in relation to money allegedly owed by the complainant to you.

During the argument the complainant was using his laptop computer. During that argument you poured red wine onto the complainant's laptop computer, damaging it. During that argument the complainant pushed you. It is not clear in the submissions made your counsel and indeed the State, do not identify whether that push occurred before or after you damaged his computer.

The argument continued and you damaged property of the complainant including a plate containing his dinner and his acoustic guitar.

Application is made pursuant to s 385A of the *Criminal Code* for me to deal with those matters, that is charge of destroy property and injure property, along with the indictable matter. Police were called to the address at approximately 9pm by you.

They arrived at the home soon after and were met by you who indicated that had been assaulted by the complainant. You said you did not want to proceed with charges but wanted police to remove him from the residence.

At the time you were in the company of witness a Charlotte Meek.

Police spoke with the complainant who indicated his laptop and guitar had been damaged by you but he did not at that time want police to pursue charges.

The complainant told police he would leave but wanted to get his property first He was worried it would be damaged if it was left at the address.

Police remained for a period of time but then indicated they needed to leave to deal with other reports. Police advised Ms Meek, the third party who was present and you to stay away from the complainant whilst he packed his items.

Minutes after police leaving, you went onto the balcony of the residence.

The balcony overlooked the area of the residence where the complainant lived and where he was moving items from inside the house to his vehicle.

Whilst you were on the balcony and the complainant below, an argument occurred between you which involved abusive and negative comments from both parties.

During the argument you pushed or threw a table off the balcony which hit the complainant on the head, which caused the wounding, the subject of the indictment. It caused a laceration.

You knew the complainant was below the balcony when you threw the table and threw it in his direction.

You were reckless as to the consequences of your actions but it is submitted to me by the State that you ought to have known that throwing the table in his direction was likely to hit him and cause a wound or more serious injury.

The incident was recorded by the complainant on his phone.

Medical examination revealed the complainant suffered a 5-6 cm laceration to the top of his head which required 6 stitches.

Police were called by Ms Meek.

Upon police re-attending the residence, they found the complainant with the injury to his head and the complainant told police that you had thrown a table at him.

You were found inside the residence with Ms Meek.

You was asked by police to come out of the residence which you did and you were then arrested and handcuffed.

You were intoxicated when arrested and it is put to me that you were slurring her words and appeared confused.

You were cautioned and told that you had been arrested for throwing a table at the complainant. You did not deny this action at the time but made statements to Police regarding abusive words the complainant was using towards you.

You were identified as being upset and crying whilst waiting in the divisional van to be taken to Hobart.

Police took a statement from the complainant and the witness Ms Meek. Ms Meek said she had not seen the table being thrown by you or hitting the complainant.

You were held overnight at the Hobart Police Station due to her level of intoxication.

On 24 February 2021 you were interviewed at approximately 10am. During the interview you made a number of statements and admissions, some of which included:

- (a) That you argued with the complainant that evening about money.
- (b) You said that you had 4 ciders before the complainant arrived home and that you felt fine.
- (c) You alleged that the complainant had pushed you during that argument about money.
- (d) You admitted pouring wine on the complainant's lap top but said this occurred after he pushed you.
- (e) You said that you were petrified of him and had hidden in your room most of the times since the complainant moved in as he threatened your job and lied about her children.

- (f) You said that you had been in a previous domestic violent relationship and the complainant knew this.
- (g) You admitted recalling the guitar but not damaging it.
- (h) You said that you contacted Ms Meek to attend to provide you with support because you were scared.
- (i) When asked by Police whether a table had been on the balcony you said you did not know.
- (j) When shown a picture of the broken table and asked whether that was your table you made no comment and said it looks like a piece of wood.
- (k) When asked if you knew how the table got down into the yard or broken she said “no”.
- (l) You said that you did recall the complainant videoing when you were on the balcony.
- (m) When asked directly if you threw the table she said it was “all a bit hazy last night and I would rather speak to my lawyer.”
- (n) You denied seeing the cut on the complainant’s head

At the conclusion of the interview you were charged, processed and bailed with conditions not to approach the complainant.

The wound to the complainant’s left head was approximately 5 – 6cm in length and 5mm deep and required 6 stitches.

You appear before me without prior conviction. You are apart from this behaviour entitled to claim that you are a person of good character.

In my view your conduct was triggered by the ongoing controlling behaviour of the complainant, which is not an excuse but an explanation. Somewhat effected by alcohol and triggered by past experiences of domestic control and violence you reacted as you did when an argument developed with the complainant that night The issues that led to that argument appear to have built up over a short period but involved the complainant apparently not complying with the agreement whereby he was entitled to share your residence. .. I accept the opinion contained in the psychological report as to the application of the verdins principles. That opinion satisfies me that your moral culpability is reduced by reason of post traumatic stress disorder, which impacted your ability to exercise appropriate judgment and to react rationally. Dr Wells identifies the following matters upon viewing a video, she says "I saw and heard a traumatised woman reacting to an awful situation with her housemate in a highly irrational and distressed way as a result of her post traumatic stress disorder. I believe her moral culpability is reduced as per verdins and that her post traumatic stress disorder and their interactions impaired her ability to exercise appropriate judgment to think clearly and rationally and contributed casually to the commission of the offence". I accept that opinion and have regard to it in framing sentence.

It should be observed that objectively speaking, your reaction was capable of causing serious injury to the complainant, and I think it is fair to say that it is by pure good fortune the injuries he sustained were not more serious. I accept that you were reckless as to those consequences rather than intending them

It should be observed that there were other more appropriate ways of dealing with his conduct- a mature response to your difficulties with it, was called for and would have avoided this

situation. I am certain and your counsel has submitted as much that you have reflected upon this episode many times, and that you are deeply regretful.

I have received a victim impact statement. I do not accept all of its contents. In my view there are some exaggeration of the emotional consequences which resulted from this offending. That said it cannot be doubted that your behaviour impacted the complainant emotionally, as well as physically, not least because of the immediate fear from being unexpectedly struck by a falling table.

The sentence the Court imposes must reflect the need for general deterrence.

But as I have said it cannot and do not ignore your personal circumstances.

I do consider that you are remorseful for the events of this evening, despite a suggestion to the contrary contained in the Crown statement of facts that is put to me. That remorse is reinforced by your plea of guilty. You are unlikely to reoffend.

You are 47 and you have an excellent work history.

On the basis of the submissions made to me by your counsel, I have had you assessed for a community based order and you are deemed suitable for such order. I should say that ordinarily such penalty would be insufficient for behaviour such as this but in my view in the circumstances of this case it is an appropriate response. I consider that in the circumstances of all matters that have been put to me including the report from Dr Wells should be individualised to take account of your circumstances.

Accordingly, I order you to complete 170 hours of community service over 36 months. I note that you are receiving ongoing treatment for your mental health issues and in those circumstances I do not make a supervision order.

In relation to the summary matters, I simply record convictions.

I make an order for compensation to be paid to Leon Bateman in the sum of \$2,050.00 pursuant to s 68 of the *Sentencing Act*.