

STATE OF TASMANIA v CODY STEVEN FALTUSZ
COMMENTS ON PASSING SENTENCE

11 MAY 2023
BLOW CJ

Cody Steven Faltusz you have pleaded guilty to a charge of assault that has been laid under the *Criminal Code*. You have also pleaded guilty to two summary offences that I am dealing with under s 385A of the *Criminal Code*.

All of these offences relate to an incident on 5 November 2022 at your then home. At that time you had a partner. You had been living with her and her daughter for about 8 years. You have got a longstanding drug problem. You appear also to sometimes have problems with anger. You got into an argument with your partner. You began by smashing two holes in the wall of the house that she was renting. In relation to that conduct you have pleaded guilty to a charge of injuring property under the *Police Offences Act* 1935. Next you punched her to the face. In respect of that punch you have pleaded guilty to a charge of assault under the *Police Offences Act*.

Next you grabbed your partner by the neck and started to strangle her. I was told that you grabbed her by the throat with one hand and applied pressure to her throat with your hand, and she was unable to breathe. To make matters worse, this was done in a situation where your partner's daughter was at home and knew what was going on. It was a bit after midnight. The girl went to a window and signalled to neighbours for help. You saw what she was doing and shut the curtains. However the neighbours heard screaming and yelling and saw the child signalling for help, and they called for the police. The police observed blood in your partner's mouth and minor abrasions. She would not make a victim impact statement. However I have been told that she suffered swelling and bruising to her face for a week, a sore throat, and a slight cough. It could have been much worse. People who lose control and commence to strangle their partners can cause death or serious injury.

You were not arrested immediately, but you have been in custody since 25 November last year. During that time you have not been serving a sentence in relation to anything else, so I will be imposing a prison sentence that I backdate to that date.

You are 31 years old. You do not have any prior convictions for family violence, but you do have convictions for acts of violence. In 2012 a magistrate sentenced you to 98 hours of community service on a charge of assault. In 2017 you stabbed a man in the same house where these offences were committed in an incident that began with an argument with the same partner. You lost your temper then and stabbed a neighbour to the neck. You were sentenced to 2½ years' imprisonment by another judge in April 2019, with a non-parole period of 15 months. Although there are matters that weigh in your favour it is very significant that you are not a first offender and that you have been to prison for a serious crime of violence and appear not to have learned a lesson from that experience.

There are matters that count in your favour however. You have pleaded guilty at an early stage. You indicated through your counsel that this was not going to be a trial at the stage when a magistrate committed you to appear in this Court - 19 January - so the complainant has known since then that she was not going to be required to give evidence against you. It also counts in your favour that the Crown have not been put to the expense and inconvenience of a jury trial. Similarly, applying to have the two summary charges dealt with in this Court has made things more convenient for the authorities. You made full admissions to the police when they interviewed you last November as well as pleading guilty at an early stage. You do regret what

you have done. You acknowledge that what you did was very inappropriate. There were circumstances that led to you being at a low point in your life at the time you committed these offences. Your aunt had died about a month before this and you had responded by drinking to excess and using drugs heavily. As you have acknowledged yourself, that was not a good way to go. You have done all the right things since being remanded in custody last November. You have made use of your time in custody to get fit and healthy. You intend to seek drug and alcohol counselling. You intend to enrol in a family violence offender program. As I understand it, you have not been eligible for such programs whilst you have been a remand prisoner. You have a plan to return to live with your father after your release from custody. I note that you have been a disability support pensioner because of problems with depression and anxiety.

Because of your record and because of the seriousness of the assault involving grabbing your partner by the throat, the only appropriate sentence is a sentence of imprisonment. Family violence is a big problem in this community and I should impose a sentence that should deter others from the sort of conduct that you engaged in. Taking all of these matters into account I think that I should impose a sentence that will see you in custody for a couple more months.

In relation to the three charges I convict you and sentence you to 8 months' imprisonment with effect from 25 November 2022, I order that the offences be recorded on your criminal record as family violence offences. I order that you pay compensation to the entity known as Centacare Evolve Housing for the damage to its property. I adjourn the assessment of that compensation sine die.