

STATE OF TASMANIA v DANE RONALD PYKE
COMMENTS ON PASSING SENTENCE

22 JUNE 2023
PORTER AJ

Dane Pyke, the defendant, has been found guilty by a jury of one count of causing grievous bodily harm. At the time of the incident on 6 August 2020 both he and the victim, Joshua Darling, were prisoners in Risdon Prison. They were housed in a medium security area. There was a prison lockdown at the time which for the men in the particular unit meant not being confined to their cells, but confined to the area of the unit which included a common room. Mr Darling had a room to himself. Shortly before midday, he and the defendant were talking outside Mr Darling's cell door. Generally they were on friendly terms but did not associate outside prison. They started arguing about something. When in the doorway to the cell, the defendant pushed Mr Darling to the chest who responded by trying to close the door to keep Mr Pyke away before being pushed again. Mr Darling came out of his cell towards the defendant and pushed in to the chest before the defendant pushed back again effectively manoeuvring Mr Darling back into his cell. The defendant then closed the door and proceeded to punch Mr Darling repeatedly to the head and stomach. Mr Darling fell to the ground and the punching continued. He was immediately in a lot of pain. The defendant stopped when Mr Darling told him too, and then left. Mr Darling put a towel to his face and walked to the bathroom area. He took steps to conceal what had happened for fear of prison sanctions against both him and the defendant. These steps included trying to hide his face at muster calls. However, late on the following day he experienced severe stomach pains and called for assistance. After being seen by a nurse at the prison health centre he was transferred to the Royal Hobart Hospital. He was there diagnosed with a lacerated spleen with substantial internal bleeding. That was treated by way of specialist procedure involving embolization of the splenic artery which seems to have been carried out twice. I note that if that procedure was not successful the plan was to remove the spleen completely. A specialist colorectal surgeon described the injury as life threatening due to the internal bleeding. In addition to the abdominal injury, examination disclosed a left orbital blowout fracture which was treated conservatively. There were some minor complications following the procedure to stop the bleeding but overall Mr Darling seems to have made a good recovery. He has not provided a victim impact statement.

The defendant is now 26 years old and has a lengthy recorded history of offending. On 15 November 2019, on a charge of aggravated robbery, he was sentenced to 20 months' imprisonment from 25 October 2019, with parole eligibility of one half. The sentencing judge noted convictions for assault in 2011 and 2012 which, among other offences, resulted in a suspended detention order which was breached by the commission of two aggravated assaults and one common assault when the defendant was 17. That resulted in a period of detention. His Honour noted no further violence offending since then, although in July 2018 there was a short suspended sentence for bail and drug offences. It seems the defendant was raised primarily by his mother after she and his father separated. The defendant's behaviour deteriorated, he became unwilling to accept authority and fell into bad company. That led to regular use of illicit drugs, first cannabis and then methylamphetamine. I was told that on the day of this offence, he had used methylamphetamine while in prison. It was put, and I accept, that the general prison environment and the lockdown situation contributed to his agitated state of mind. He had experienced frustrations because of on going difficulties in speaking to his legal advisors and in getting some medical assistance for his substance abuse. I accept that the attack was not premediated but that things quickly escalated brought about by his state of mind. I note that the defendant seems to have a continuing good relationship with his mother and in recorded phone calls shortly after the incident he reported to her that he had been in an

argument that had got of hand, that he was then in solitary confinement as a result and he expressed his wish that "hopefully" the man would be alright, later repeating the same sentiment. However, in terms of remorse, this did not manifest itself on a plea of guilty and he does not have the benefit that might otherwise flow from that course. Mr Darling was required to give evidence as was a number of correctional officers. There is very little if anything to mitigate this crime. It was a brutal attack. Serious injuries were caused which required surgical intervention. General deterrence and denunciation are weighty factors. It is an aggravating feature that the defendant was in prison for a crime of violence at the time and, as a prison offence, it is one which undermines prison discipline and causes disruption to routine. Officers were required to escort Mr Darling to hospital and mind him there. The defendant is not presently serving a sentence and has been in custody for a period of 429 unallocated days. I take into account that the prison conditions remain difficult for him, and for the last six months he has only been out of his cell for 46 days.

Mr Pyke, I have set out the facts and the relevant considerations. Your assault on Mr Darling is a grave matter. Illicit drug use may have contributed to your conduct but provides no excuse whatsoever. I take into account a level of frustration at your general situation but that is of no great weight in the sentencing process. You are convicted and sentenced to two years' imprisonment to commence on 19 April 2022. I consider that it is appropriate to allow you some parole eligibility and I order that you not be eligible for parole until you have served 16 months of that sentence.