

Mr Heald, you have pleaded guilty to one count of wounding. In the early hours of the morning on 24 February 2023 you stabbed your older brother to the shoulder area three times with a knife. You and your brother had been together at his residence, drinking alcohol from about 4.30pm the previous afternoon. By approximately 8.00pm, you were becoming agitated and were quite drunk. Your brother encouraged you to slow down your consumption of alcohol. It seems you declined to do so.

In the early hours of the morning, your brother and his friend, who had arrived at the residence throughout the evening, went to the bedroom. Your brother heard you on the phone to someone. You then asked your brother whether he could take you to a local hotel or provide you with car keys to enable you to drive yourself. For obvious reasons, your brother declined to do so. You entered the bedroom, even though you were told not to. Your brother got out of bed and asked you to leave. You refused to do so and became increasingly agitated. There was a fight between your brother and you. He was trying to get you out of the bedroom. You were both punching each other and at one point your brother placed you in a headlock. You left the room, went to the kitchen and returned with a knife. You swung the knife at your brother and stabbed him to the left shoulder. Your brother grabbed you in an attempt to stop you. You stabbed him two more times to the shoulder. Your brother's friend contacted police. You were located at the residence and arrested.

Your brother was taken to the North West Regional Hospital. He had the following injuries:

- an open wound over the lateral deltoid area, which was two centimetres long and approximately 0.4 centimetres deep;
- an open wound over the anterior deltoid area, which was 1.5 centimetres long and approximately 0.2 centimetres deep; and
- an open wound over the left trapezius area, which was 1.5 centimetres long and approximately 0.2 centimetres deep.

The wounds were cleaned and closed with sutures. The wounds did not cause any internal injury.

You participated in a record of interview. You admitted to police that you were very intoxicated. You said you could recall fighting with your brother and admitted obtaining a knife, but you could not recall inflicting the actual wounds. You nevertheless accepted that you had done so. You conceded to police that it was stupid behaviour that would not have occurred if you were not so intoxicated. You expressed remorse.

You are 25 years of age. Your parents separated when you were quite young, and you have lived variously between your mother and father's residences. Your schooling has been somewhat disrupted. You left home when you were a teenager and you have been without stable accommodation since. Whilst you have a number of siblings, you are not particularly close with any of them. Your older brother, the complainant here, was the only sibling with whom you had a meaningful relationship. As a teenager you were diagnosed with Bi-Polar and schizophrenia. Usually, your conditions are managed by medication. I am told that shortly before this incident you had ceased taking your medication and were experiencing some instability in your mental health. You have resumed your medication and are now in a more

stable position. I am also told that you recognise your consumption of alcohol is a difficulty for you. You attribute your behaviour on this occasion to your significant intoxication. Since the crime occurred, you have reduced your alcohol consumption.

To your credit, and consistent with remorse, you entered a plea of guilty at any early opportunity, when the matter was still before the Magistrates Court. Whilst you have a number of prior convictions for driving offences and offences contrary to the *Road Safety (Alcohol and Drugs) Act*, you do not have any relevant prior convictions for matters of violence. This behaviour appears to be out of character for you. I accept it can be largely attributed to your excessive alcohol consumption, which of course is not mitigating but perhaps explains why the incident occurred.

Any act of wounding is serious. The use of weapons to settle grievances is all too common and must be condemned by the courts. There is a need to deter others from resorting to such violence. The use of a knife by an intoxicated person is fraught with danger. The risk you presented to your brother was obvious. Your level of intoxication meant that you had little or no control, in my view, as to what the outcome may be when you chose to strike him with the knife on three occasions.

A period of imprisonment is warranted, but because of your lack of relevant prior convictions, and the steps you have taken to stabilise yourself by addressing your alcohol consumption and resuming your use of mental health medication, I have determined it is appropriate to wholly suspend the period of imprisonment I intend to impose. I also consider it is appropriate to impose a Community Corrections Order. I note you were assessed as unsuitable because of previous non-compliance with community based orders. I accept part, at least, of that non-compliance was associated with your homelessness. I think you would benefit from the assistance that can be provided by community based supervision and I intend to encourage your compliance with the order by making your participation in the order a condition upon which the period of imprisonment will be suspended.

I make the following orders. You are convicted of the crime of wounding. You are sentenced to eight months' imprisonment. The whole of that sentence will be suspended for a period of two years on the following conditions:

- (a) That you are not to commit another offence punishable by imprisonment during that period; and
- (b) That you will be subject to the supervision of a probation officer. You must comply with this condition for a period of 12 months from today. The conditions set out in s 24 of the *Sentencing Act* will apply to this order. These include that you must report to a probation officer at Community Corrections, at Devonport or Burnie, by close of business today.

In addition to the core conditions, the order shall also include the following special conditions:

- you must, during the operational period of the order, attend educational and other programs as directed by the court or a probation officer;
- you must submit to the supervision of a probation officer as required by the probation officer;
- you must undergo assessment and treatment for drug dependency as directed by a probation officer;

- you must submit to testing for drug use as directed by a probation officer;
- you must undergo assessment and treatment for alcohol dependency as directed by a probation officer;
- you must submit to testing for alcohol use as directed by a probation officer;
- you must submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.

I need to explain to you Mr Heald, that if you do commit an offence punishable by imprisonment, and you should be aware that the vast majority of offences on the statute books are offences that are punishable by imprisonment, or if you fail to satisfactorily comply with the community correction order, then you can be brought back to the Court and an application made that you serve the suspended period of imprisonment. The law is that a judge has to activate that sentence unless it is unjust.