

Mr Ciantar, you have pleaded guilty to one count of wounding. On 19 September 2021, you were walking with your then partner, Ms Martin, in Gunn Street in Devonport. Your partner became involved in an altercation with two other people. It is not necessary to explain the reasons behind that altercation here. Nevertheless, your partner and the complainant became involved in a physical scuffle. They wrestled on the ground and punched each other to the head. Words were exchanged. You ran towards the complainant. The complainant's friend, Mr Hall, started to chase you. You then produced a knife and said words to the effect of "I'm going to be using this". Mr Hall attempted to pull the complainant away. You swung the knife making contact with the complainant's head. You caused a large wound to the front, left side of her scalp. The laceration was closed with six surgical staples.

On 21 September 2021 you were arrested and interviewed. You admitted to police that there had been an incident between you and your partner and two others, but you denied using a knife at the time. Police subsequently searched your residence and a knife matching the description of the one used in the attack was located.

In a physical sense, the complainant's wound has healed, although she has been left with a visible scar. Psychologically she is experiencing ongoing difficulties. Pre-existing conditions of Post-Traumatic Stress Disorder and depression have been exacerbated. She feels constantly anxious and scared. She has difficulties in trusting anybody. In general terms the impact asserted by the complainant in her impact statement is consistent with what one would expect from an attack of this nature.

You are 38 years of age. You come from a background of extreme social disadvantage. You grew up in circumstances of neglect. Your mother was an alcoholic and also spent considerable periods of time in prison. You were removed from her care at an early age. You spent some time living with your father, but that too was fraught with difficulty because his partner did not want you and your brothers living there. Efforts were made for you to live with other family members but they were unsuccessful. From an early age you were living independently and were largely homeless. Unsurprisingly, your schooling was interrupted and spasmodic. You developed an addiction to cannabis at about the age of 13. It continues to be a difficulty for you. You have also experimented with a number of other drugs throughout your life. Your brother died when you were about 18. Following this you developed an addiction to amphetamine. In about 2006 you commenced a relationship with your now ex-wife. The marriage lasted for a period of about 10 years. During this time you were relatively stable but the relationship came to an end in 2016 due to a number of stressors, including your ongoing drug addictions and difficulties within the relationship in conceiving children. In 2012 you were the victim of a serious stabbing incident. You received nine stab wounds in total. You spent a considerable period of time in intensive care, in a coma. Following this, you were prescribed a considerable amount of pain relief medication. You developed an addiction to morphine. This contributed to difficulties within the marriage.

In 2017 you were placed onto the Court Mandated Drug Diversion Programme. Whilst you did not successfully graduate from that programme, you certainly made improvements during your time on the programme, reduced considerably your illicit drug use and managed to make your way to phase three of the programme..

Generally, you have a poor history of prior criminal offending. Many of the crimes committed by you as a youth were consistent with you living on the streets and stealing to support yourself. Additionally, you have a poor history of driving offences, and offences contrary to the *Misuse of Drugs Act*. You have a number of prior convictions for offences against police, including threatening a police officer and assaulting a police officer. You have served periods of imprisonment for offences against police. You also have prior convictions for common assault, although your prior history of violence is not overly grave.

You spent a period of time in custody throughout 2019. Following your release from custody in late 2019, you became your father's carer. Your father is visually impaired and you undertake daily tasks for him. He is heavily reliant upon you.

In June 2020 Ms Martin gave birth to your child. That child was taken into State care. Since the commission of this crime you have ended your relationship with Ms Martin and I am told you have significantly moderated your drug use. It seems your reaction to this incident came about because Ms Martin had recently told you that she was again pregnant. When she became involved in the altercation with the complainant you were concerned about the impact on the pregnancy and reacted in the manner described.

I had you assessed as to your suitability to participate in a home detention order. You were originally deemed unsuitable because it was considered unlikely that given your ongoing difficulties with cannabis use, that you would be able to comply with the conditions of the order. I will return to that issue shortly. The report generally was positive in my view. It indicates that you have been making a concerted effort to stay out of trouble and are predominately focusing on living a quieter existence and assisting your father. It is noteworthy that you have not committed any offence, save for failing to appear in court, since this crime occurred. When measured against the regularity with which you have committed offences in the past, that nearly two year period is significant. It suggests you are maturing and beginning to develop some insight into the changes that are necessary for you to stay out of gaol.

There is no question that this was a serious case of wounding. Striking someone to the head with a large knife is obviously fraught with risk. I sentence on the basis that this was a reckless wounding, but it nevertheless must have been blatantly obvious to you that swinging the knife in the direction of the complainant's head was an inherently dangerous thing to do. It is most fortunate that the complainant was able to receive appropriate medical treatment and a more grievous outcome did not eventuate. I accept you now regret what you did. I am told you realise the seriousness of your behaviour. To your credit you have pleaded guilty, although I note at one stage you failed to appear in court and a warrant had to issue. Nevertheless, it counts in your favour that the complainant has been saved the ordeal of giving evidence about a matter that was clearly upsetting for her.

Your crime is aggravated by the fact it was committed on a public street. Violence of this nature, particularly when it involves the use of a knife, has no place whatsoever in our community. General deterrence and denunciation are important sentencing considerations. A sentence of imprisonment is clearly required to mark the seriousness of your behaviour, and to reflect the harm you caused to the complainant. The question I have grappled with is whether it is appropriate to allow you to serve that period of imprisonment by way of a home detention order. As noted, the home detention assessment report suggested you were unsuitable essentially because of your ongoing use of cannabis. I heard evidence about this issue from the author of the report. You, through your counsel, submit that you are capable of abstaining

from ongoing cannabis use. You point out that you have done so in the past when you were subject to a drug treatment order and made it to phase three on the program. This would have necessitated, I accept, abstinence from illicit drugs for many months. Ultimately, you failed because you began a relationship with Ms Martin, who was also a heavy user of illicit substances. That relationship has come to an end and I am told you are now cognisant of the fact that you must be careful as to with whom you associate. You spend your time caring for your father. Taking all matters into account I have determined it is appropriate to impose a period of home detention in an endeavour to encourage you to maintain what appears to be positive changes. Mr Ciantar, my decision to impose home detention was not lightly made. If at the end of the day you do not embrace the opportunity I have given you, and you return to the use of illicit drugs or otherwise breach the terms of the home detention order, an application can be made that you be resentenced. It would be almost inevitable, in my view, that any resentencing order would involve actual imprisonment.

I make the following orders. You are convicted of the crime to which you have pleaded guilty. I impose a Home Detention Order for an operational period of 12 months from today. The order will include the following conditions, which will apply for the whole of the operational period:

- 1 You must not commit an offence punishable by imprisonment.
- 2 You must reside at **[address redacted]**.
- 3 You must be there at all times, except when you are not there for a "relevant reason" as specified in s 42AB ss 4 of the *Sentencing Act* 1997, this includes going somewhere, including going to your employment, with your probation officer's permission.
- 4 You must permit a probation officer, a police officer, or other prescribed officer to enter those premises.
- 5 You must permit a police officer to conduct a search of the premises, conduct a frisk search of you and take a sample of any substance found on the premises or on your person.
- 6 You must submit to electronic monitoring, including the wearing or carrying of an electronic monitoring device.
- 7 You must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.
- 8 You must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.
- 9 You must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring device, including directions relating to the installation, attachment or operation of the device, or system used for the purpose of electronic monitoring, if those directions are given to you by a police officer, a probation officer, another prescribed officer or any other person whose functions involve the installation or operation of a device or system used for the purpose of electronic monitoring.
- 10 You must maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through that device at all times.
- 11 You must not take any illicit or prohibited substances.
- 12 You must not take any medication containing an opiate, benzodiazepine, buprenorphine, hydrochloride or pseudoephedrine unless you provide written evidence from your medical practitioner that you have been prescribed that medication.

- 13 You must not during the operational period of the order consume alcohol and you must, if directed to do so by a police officer, or community corrections officer, submit to a breath test, urine test or other test for the presence of alcohol.
- 14 You must submit to the supervision of a Community Corrections Officer as and when required by that Officer.

I direct that you report to Community Corrections, Devonport by close of business tomorrow for induction onto this order.

Additionally, I impose a Community Correction Order for a period of 12 months from today's date. All core conditions noted in the *Sentencing Act* will be included in the order. A copy of those will be provided to you in writing. You must report to a probation officer at Devonport by close of business tomorrow in respect to that order also.

I impose the following special conditions:

- (a) You must, during the operational period of the order, attend any educational or other programme as directed by the Court or a probation officer;
- (b) You must submit to the supervision of a probation officer as required by the probation officer;
- (c) You must submit to testing for drug use and/or alcohol use as directed by a probation officer;
- (d) You must undergo assessment and treatment for drug dependency and/or alcohol dependency as directed by a probation officer;
- (e) You must submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;
- (f) If directed by a probation officer to do so, you must attend, participate in and complete the EQUIPS addiction programme and the EQUIPS aggression programme.

I make an order that the knife seized by Tasmania Police, on 22 September 2021 be forfeited to the State of Tasmania. I note its value at \$50.00.