

Rowan Hume, you were found guilty by a jury of causing grievous bodily harm. You were acquitted of committing an unlawful act intended to cause bodily harm. Subject to the verdict it is for me to find facts for sentence. Facts adverse to you must be proved beyond reasonable doubt. The crime was committed on 15 February 2020 at the house in which you lived with your then partner Ember Kindred at Lilydale Road near Underwood. The victim of the crime was your brother Aaron Hume.

On that day your daughter Jazmine had also been staying with you with one of her friends. During the evening, likely around 8 or 9 pm, Aaron Hume received a message to go to your house to pick up Jazmine and her friend. Jazmine had let others know that she had left the house and was on her way into town on foot. There was conflicting evidence about why she left, but I am satisfied that one of the reasons she did so was her wish to remove herself from conflict at the house between you and Ms Kindred. On the way to Underwood Aaron Hume picked up Ms Kindred's brother Jay Lockhart-Kindred. A kilometre or two from your home they found your daughter and Ms Watson walking on the road. After picking them up, Aaron Hume decided to go to your house. I am satisfied he did so for no other reason than genuine concern for Ms Kindred which was why he picked up her brother on the way. The car was parked on the road and Mr Hume walked alone down the long driveway towards your front door. What he saw when the door was opened did not alleviate his concern. He demanded you come outside. There were various exchanges between him and you but when you eventually did walk out the front door you brought with you a loaded .22 rifle with a telescopic sight. You threatened to shoot him. He challenged you and told you to put the gun down, but you did not do so. It follows from the verdict that the jury rejected your evidence that the rifle was discharged involuntarily when Aaron Hume grabbed at it and that you did not know it was loaded. I also reject your account as false. I find that, from a distance of about one and a half to two metres away, you pointed the gun in his direction, believing it was loaded, and fired. You acted in a continued state of anger and high agitation arising from your interaction with Ms Kindred and your brother's attempts to intervene. The bullet struck him in the right forearm, just below the elbow. It also follows from the verdict that the jury was satisfied that although you did not intend to injure Aaron Hume, you fired the gun realising that you may cause him serious injury and acted regardless of the risk that you would do so. I believe Aaron Hume's evidence that you threatened to shoot him again, and I so find. However I am not satisfied beyond reasonable doubt that you acted on that threat by clearing the chamber and attempting to reload the rifle because the only discharged cartridge case which was found was inside the house.

After he was shot, Aaron Hume walked off down the driveway where he met Mr Lockhart-Kindred who drove him to hospital. The police were called. You claimed to the police that you disposed of the rifle you used in the bush but you could not remember precisely where, and it was not found.

Your brother was seriously injured. The bullet fractured his right radius near the elbow and perforated the radial artery. He had immediate surgery for a fasciotomy and to reconstruct and fix the fracture with rods and repair the artery. The wound was closed with further surgery two days later. He was an inpatient for four days during which time he required antibiotics and pain relief. In the usual understated way of such things the report refers to return of normal movement in the hand, but I think it inevitable that there must be some ongoing impact on the victim. His victim impact statement outlines the very serious and psychological effects upon him. He

believes he is no longer able to work as a glazier and that the injury he suffered has had a consequential enormous personal and financial affect upon him. As always I am to treat such victim impact statements with a degree of a circumspection. The State does not seek to prove by medical evidence or further evidence from Mr Hume that the extent of the impact is as significant as he describes but he describes the sort of impact which might be expected.

You are now aged 34. You have no prior convictions for violence. Your personal circumstances were described by your counsel and referred to in a home detention order assessment report I ordered. You had a stable upbringing. You have four children aged between five and 19 from three previous relationships, who you see often. You have an industrious work history. You are currently a full time sub-contract boiler maker welder and are regarded as a valuable part of the business you are currently engaged with. You were an occasional use of illicit drugs but claim to have ceased that use now. You are currently in a new relationship with a supportive partner. Some of the things you told the author of the assessment report are inconsistent with the findings of the jury, and suggest to me that you still do not accept full responsibility for, and tend to understate the seriousness of, your actions. You are not entitled to the benefit a plea of guilty would have attracted. With some hesitation, however, I have decided that a home detention order is the appropriate sentence. You have been assessed as suitable. It will have a punitive effect on you because it will be a significant impact on your liberty, but falling short of actual imprisonment. You spent 12 days in custody at the time of the crime. A home detention order will enable you to maintain your employment. For the reasons detailed in the assessment report I will order that your current partner not be present at the home detention premises between 10.00 pm and 6.00 am. You should clearly understand that you are at risk of actual imprisonment. If you breach any of the provision of the conditions of the home detention order then prison would be almost inevitable.

You are convicted of causing grievous bodily harm. I make a home detention order. The operative period of the order is 18 months from today. I specify the premises at which you are to reside during the operational period of the order as [home detention premises]. I order that at 10.00 am tomorrow, 28 November 2023, you report to the office of Community Corrections at 111 Cameron Street Launceston, for induction into this order, and a further explanation as to its full terms. The order will be subject to all of the core conditions set out in the *Sentencing Act* 1997, s 42AD(1). They will be set out in the order that you will be given, but include that you will submit to electronic monitoring and must, during the operational period of the order, if directed to do so by a police officer, probation officer or prescribed officer, submit to a breath test, urine test, or other test, for the presence of alcohol or an illicit drug. I specify that you must be at the home detention premises at all times unless for a relevant reason. In short, that means that you must be at those premises unless there is a need for urgent medical treatment, there is a serious risk of death or injury, or you already have the approval of a probation officer to be absent. It will be for the probation officer to determine what to approve so as to allow for treatment or rehabilitation, or to enable you to undertake your employment or for any other purpose. Those conditions will include that you not commit another offence punishable by imprisonment and that you comply with all directions given to you by your probation officer. There will be conditions that:

- you must submit to the supervision of a probation officer as required by that officer;
- you must not take any illicit or prohibited substances. Illicit and prohibited substances include any controlled drug as defined by the *Misuse of Drugs Act* 2001, and any medication containing an opiate, benzodiazepine, bupropion,

- hydrochloride or pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication;
- you must not the during the operational period of the order consume alcohol;
- you must submit to any rehabilitation or treatment program as directed by a probation officer;
- you must submit to a medical, psychological, psychiatric or physical or mental health assessment or treatment as directed by a probation officer;
- you must maintain an active mobile phone service, provide the contact details to Community Corrections and be contactable at all times.;
- Sheridan Leaver must not be present at the home detention premises between the hours of 10.00pm and 6.00am.

This order comes into effect immediately. You must understand that if you do not comply with the conditions, imprisonment is likely. If you breach the order by committing another offence, the order must be cancelled unless there are exceptional circumstances, and in that case imprisonment would be highly likely.