

Joshua Olding, the defendant, has pleaded guilty on complaint to one count of assault. He was committed for sentence. I am also dealing with his plea of guilty to a charge of destroying property being an associated charge on the same complaint. The facts are as follows. The complainant is the defendant's father, Stephen Olding, who I will refer to in these comments as Mr Olding. I will continue to refer to Joshua Olding as the defendant. At the time of the incident Mr Olding was 54; the defendant, 31. On 2 December 2022, Mr Olding left his home for a time. While he was out he was contacted by another son who told him of damage to an unattached vehicle tail light at the house, together with cigarette butts strewn across the rear deck. Mr Olding learnt that the power had been switched off. Mr Olding thought that the defendant was responsible for these things as he had done similar things in the past. Having returned home, at approximately 9.30pm, Mr Olding heard someone banging on the front door. On opening the door he found the defendant standing at the bottom of the porch steps. An argument then took place between the two about the damage and the mess the complainant believed that the defendant had been responsible for earlier in the day. The defendant requested money from Mr Olding and that request was refused. After being denied the money, the defendant spat in Mr Olding's direction. Mr Olding walked down the steps and told the defendant to leave. At that point the defendant grabbed and threw a terracotta pot which hit Mr Olding in the torso before it fell to the ground and was smashed. When Mr Olding fell to his knees, the defendant punched him to the head several times. Mr Olding was able to grab the defendant around his torso and drag him to the ground to stop him hitting him. As Mr Olding was trying to push the defendant off him, he felt his right ankle go limp and pain in that area. The defendant fell into a bush before fleeing the scene on foot. Mr Olding crawled back into his house as he could not bear weight on his foot, and called the authorities. Mr Olding was taken to the hospital where it was established he had a broken right ankle that required surgery with plates and pins to stabilise it, a fractured left foot, bruising to the back of his head and hands and grazing to his legs, face and elbows. The acts of spitting, throwing the pot and punching several times make up the assault. I note the defendant accepts responsibility for the ankle injuries as arising from that assault. About ten days after the incident the defendant voluntarily attended a police station and was interviewed. He made admissions about what he had done. He said his father had verbally abused him and had said he was beyond help. He admitted that he had consumed six litres of wine and had also ingested methamphetamine. He said he felt guilty for what he had done. I have a victim impact statement dated 23 June 2023. Mr Olding had both feet in what are known as "moon boots" for ten weeks after the assault and was required to use a wheelchair for four weeks. Due to the immobility of both ankles he had to use a wheelchair and portable toilet for about a month. He was not able to return to work for three months. He had a few weeks sick leave but then had to use his annual leave. He says that he was in a lot of pain. He underwent extensive physiotherapy. He was hoping for a full recovery but as the date of this statement, could not bend his right foot normally which affects a number of movements. This affects his ability to work on air-conditioning installation. He finds he continues to suffer pain on a daily basis and generally has to be very careful. He still has concerns about the defendant returning to his home and doing further damage. He says that his wife is terrified of the defendant. He observes that just before the assault he had contacted the police to get advice about what to do, as he was worried about the situation with his son. He was told to get a restraining order but the assault occurred before he could do that.

The defendant is now 32. He has a recorded history of offending starting in 2007. In that year he was dealt with as a youth for an assault, in 2008 for a destroy property and for two separate

charges of assault in February 2009. As an adult, in May 2010 he was convicted of aggravated burglary and causing grievous bodily harm for which he was sentenced to two years' imprisonment, the execution of six months of which was suspended on conditions for 12 months. In September 2010 the defendant was dealt with for a number of matters which predated that violent offending, one of which was injuring property. Later, in June 2013 he was fined for assault, and again fined for two counts of assault alongside a breach of a restraining order in May 2014. In June 2017, he was convicted of injury to property and fined a not insignificant amount. More recently, in February 2021 he was convicted of an assault and two counts of destroy property committed in June 2020 and sentenced to 10 weeks' imprisonment wholly suspended on conditions for 12 months. After the present offending, in September 2023 he was dealt with for antecedent conduct including eight charges of using a carriage service to menace, harass or cause offence. He was sentenced to about 12 weeks' imprisonment backdated, from which he was released on 11 September 2023. He was also made the subject of a community correction order commencing on the day of his release. The defendant failed to appear on these matters on 15 September 2023 and a warrant for his arrest was issued. He was taken into custody on 21 September and he has been in custody on these matters since that time. The community correction order is presently under review by a magistrate following offending against police officers on 21 September, apparently when arrested. I was told that the magistrate has foreshadowed the making of a similar order. As to the defendant's other relevant personal circumstances, his parents separated when he was quite young, and he has not been able to get on with his father's then new partner, now his step-mother. He does accept that he was difficult to control as a child, and at the age of 13 he was asked to leave home. He carries feelings of betrayal and being "left behind", particularly given that two half-brothers stayed at home. He went to live with his maternal grandparents on the East Coast where he remained until he was 17, having completed secondary education. He returned to Launceston when he was 18 but was essentially homeless. Given his nomadic lifestyle he fell in with older associates and poor role models. Because of his imprisonment in 2010 he has found it very difficult to get accommodation since his release. Of significance in his personal circumstances is that at the ages of 10 and 11 he was sexually abused by two different perpetrators; one a cousin, and the other a school counsellor. By themselves these events have had a profound impact on him and seem to have added to his sense of betrayal when asked to leave home. They have given rise to mental health issues and he recognises he has never properly dealt with the trauma. There has been no formal diagnosis but I was told a psychologist's view is that he likely has PTSD and a polysubstance abuse disorder. As to the substance abuse, after leaving prison he was introduced to methamphetamine and was addicted by the age of 25. That addiction exacerbated an already difficult situation for him in terms of attempting to return to normal life after prison. Generally, prison is said to have corrupted him. He has always had a fraught relationship with his father but is supported by his maternal grandfather, and also by his mother and sister. As for the offending, he fully accepts his conduct was appalling and he has said to have been distressed by the photographs of his father's injuries. I accept there is genuine remorse. That is evidenced by his voluntary surrender, the admissions to police and his plea of guilty at the first practicable opportunity. Through the Court, the defendant has offered an apology to his father.

All violence is unacceptable. There are some features of this matter that I regard as aggravating. First, this was a breach of trust, that trust arising because of the family relationship. Second, Mr Olding sustained not insignificant injuries leading to disruption in his life and ongoing problems. There is also the defendant's record of violent offending. Attempting to deter others from this sort of conduct and attempting to modify this defendant's behaviour are prominent factors in the sentencing process. At the same time, I take into account his personal

circumstances. His mental health issues caused by the sexual abuse are not offered as mitigation but by way of relevant background, and I accept that is so. It needs to be taken into account. I accept that the defendant is generally remorseful as evidenced by the matters I have outlined. The early plea of guilty also has practical value. In those circumstances, he is entitled to a discount for his plea. However, in my view a term of imprisonment is necessary notwithstanding the things that operate in the defendant's favour. Despite non-compliance with the community correction order earlier made, I think it appropriate to make another one. It is in the defendant's interests and in the public interest that support continues to be made available. I note that what I regard as the unhelpful and inconvenient s 17A of the *Sentencing Act* precludes me from both allowing parole eligibility and making a community correction order. I take that into account in setting the gaol term.

Joshua Olding, I have set out the facts your personal circumstances and what I see to be the relevant considerations in fixing the appropriate sentence. It is a balancing exercise. As I have said, and as I think you recognise, this was appalling conduct against a member of your family. Irrespective of what resentment you have and what issues there are between you, violence is unacceptable. You have a tendency to act in violent and destructive ways which you need to control. As I have also said, I take into account your background of mental health issues and what gave rise to them, and the difficulties you faced after being in prison for a lengthy period at an early age. You are convicted of both matters and sentenced to nine months' imprisonment to commence on 11 September 2023. I make a community correction order to commence on the day of your release and operating for a period of 18 months. Special conditions of that order are as follows:

- (a) you must submit to the supervision of a probation officer as required
- (b) you must undergo assessment and treatment for drug dependency as directed by a probation officer
- (c) you must submit to testing for drug use as directed by a probation officer
- (d) you must submit to medical psychological and psychiatric assessment or treatment as directed by a probation officer.

You will have to report to a probation officer at 111 Cameron Street Launceston within 48 hours of your release from prison.