

STATE OF TASMANIA v MICHAEL JOHN CORDWELL
COMMENTS ON PASSING SENTENCE

BLOW CJ
7 February 2024

Mr Cordwell has pleaded guilty to a charge of wounding. Late on the night of 11 August 2021 he was drinking in a bar in Hobart. He was very drunk. A man named Clark was standing nearby. The two men did not know each other. Mr Cordwell made a nuisance of himself, dancing around Mr Clark and grinding his body against him. Mr Clark swore at him and pushed him away. He approached Mr Clark again, and got pushed away a second time. Then Mr Cordwell attacked Mr Clark. He pushed him onto a couch. Mr Clark stood up again and twice pushed Mr Cordwell's arm away. Then Mr Cordwell drove his right arm into the other man's neck and shoulder, held him by the shoulder, drew back his left arm, and thrust a glass into the man's face. It broke on impact. Mr Cordwell took three swings in attempting to hit the other man with the glass. The man was trying to shield his face with his hand.

The complainant suffered a two centimetre laceration to his right cheek. He lost a tooth on the right side. A tooth on the left became loose. His mouth became infected, quite possibly because of poor dental hygiene in the past. He attended a hospital a few days later. His wound was closed and he was provided with antibiotics.

His 21st birthday fell on a day when he was still taking those antibiotics. He was not able to drink or celebrate. The injury was a very painful one. It has resulted in disfiguring facial scarring as well as some psychological symptoms that have been described in a victim impact statement and are ongoing. The victim went to live with his mother and stayed there for six months before returning to where he had come from.

Police officers interviewed Mr Cordwell in November 2021, about three months after the incident. He said he could not remember the night, but said that he was out drinking with friends and that his intoxication level was 10 out of 10. He was shown CCTV footage of the incident. He appeared to understand the seriousness of what he had done.

Mr Cordwell was 23 years old when he committed this crime and is now 25. He has steady employment with an excavator company. He has a partner. He or they own their home. His partner is pregnant and expecting their first child in August. Mr Cordwell does not have a bad record. He has been fined twice for disorderly conduct. In 2020 he assaulted another man by punching him to the right eye. He pleaded guilty to a charge of assault and was released without conviction on an undertaking to be of good behaviour. He has a conviction for a drink driving offence in February of this year, but he was a provisional licence holder and his reading was only 0.015.

His counsel told me that he totally modified his lifestyle as a result of this incident, that he did not generally drink in the past to that extent that he did on the night in question, and that he now does not drink alcohol or go out at night. He is an industrious young man with a good work record. He has not been in any serious trouble since the night in question. The delay in disposing of this matter was apparently not his fault. The Crown was notified some time ago that he would be pleading guilty. He is ashamed of what he did.

When this matter first came before me, in November, I ordered a pre-sentence report as to his suitability for court-ordered community service. A probation officer reported that he was

considered unsuitable for court-ordered community service, but suitable for community based supervision.

When the matter came back before me in December, I ordered a home detention assessment report and a different probation officer has reported that he is considered suitable for court-ordered community service, unsuitable for community based supervision, and suitable for a home detention order.

I think, having regard to the seriousness of the impact on the victim, that it would be more appropriate to order a period of home detention. If I were unable to order home detention I would certainly have imposed a sentence of imprisonment, although probably a wholly suspended one. I think it is preferable to order a period of home detention combined with some community service. I think that if I did not order community service, I would order a somewhat longer period of home detention. It is in Mr Cordwell's interests that I give him fewer months in home detention and require some community service. I was told that since he works full-time there might be difficulty finding projects for him for weekend community service. However, I have also been told by the second probation officer that if 50 hours' community service or less is ordered, it would be appropriate to allow 12 months for the community service to be completed. I think it ought to be possible for the Probation Service to find projects totalling 50 hours that fit in with Mr Cordwell's employment obligations. I think that, given the contradictory reports as to whether he is suitable for community service, it is appropriate to err on the side of Mr Cordwell in all the circumstances.

Michael John Cordwell, I convict you and make a home detention order for an operational period of four months from tomorrow. That order will include conditions. The home detention premises will be at [address]. The core conditions of the order are contained in s 42AD(1) of the *Sentencing Act* 1997. They will have effect for the full four months. They include s 42AD(1g) which requires you to submit to electronic monitoring. For the purposes of the condition contained in s 42AD(1c), I specify that you must during the operational period be at the home detention premises at all times on each day of the week unless you are not there for a relevant reason as specified in s 42AD(4).

The order will also contain the following special conditions, all of which will apply for the operational period of four months.

- You must report to a community corrections officer at Community Corrections in Hobart for the purpose of induction no later than 10am tomorrow.
- You must maintain in operating condition an active mobile telephone service, provide the details to a community corrections officer and be accessible for phone contact through that service at all times.
- You must submit to the supervision of a community corrections officer as required by that officer.
- You must not consume any alcohol or take any illicit or prohibited substances including any controlled drug as defined by the *Misuse of Drugs Act* 2001 or any medication containing an opioid, benzodiazepine, bupropion hydrochloride or pseudoephedrine unless you provide written evidence from a medical professional that you have been prescribed the relevant medication.
- 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 purposes of electronic monitoring.

I make a community correction order to operate for 12 months from tomorrow, with a condition that during that period you must satisfactorily perform and complete 50 hours of community service as directed by a probation officer or a supervisor.