

Benjamin Bayley, you plead guilty to three counts of assault. The crimes were committed on 8 June 2023. You were then aged 40. For about two years you had been in a relationship with the complainant, who was then 30. Your son was the just under a month old. Your relationship with the complainant was a difficult one. On this day you were together in the bedroom, with the baby, when an argument developed. You had been seated on the bed. You got up to walk around the room. As the complainant also stood you pushed her and then punched her right eye with your right fist.

You picked up the baby, and walked off around the house before the complainant took the baby back from you and returned to the bedroom. The argument continued. As you stood in front of her you turned and kicked her to the side of her head with your right foot. The nature of that action is affected by the fact that, in your past, you have been trained, and become very skilled in Taekwondo. The very unfortunate result of what you did however was that, because at the time the complainant was holding the baby, his head was also struck with significant force. You then left and walked to your grandmother's home.

The complainant presented at the emergency department of the hospital with the child. As to the complainant she had swelling under her right eye. Investigations disclosed no fracture at that site but a possible small fracture of her nose. She did not require treatment. The position with the baby was different. The left side of his head was swollen and a CT scan showed a left sided skull fracture with bleeding within the brain on both the left and right sides. He did not require surgery or treatment other than monitoring. The bleeding was considered of small volume with no definitive area of bruising. He was given precautionary anti-seizure medication. He was monitored before being discharged two days later. He has apparently fully recovered. There remains what seems to be a relatively small risk of future seizure, although there were no seizures at the time and have been none since.

Your criminal record is mostly for driving offences and you have no prior convictions for violence. The information I have about your personal circumstances comes from your counsel and from a pre-sentence report I ordered. On your release you will live with your grandmother. You are very close to her. She was the person who was responsible for your upbringing. Despite the very considerable disadvantages you faced as a young person you have an industrious background. You held a range of jobs until you stopped working a few years ago after taking up with the complainant. You have used illicit drugs in the past but no longer do so. I only have your side of the story but your counsel described the relationship with the complainant as one which led you away from the structure and routine of your life and isolated you from other supports. The complainant introduced you to methylamphetamine. You felt controlled and manipulated. You have no intention to resume the relationship following your release although you have a strong wish to assume a parenting role with your son as much as you are able to, and to undertake whatever counselling and programs as are necessary to enable this to occur.

It was your obvious intention to strike the complainant. Whatever the provocation, there is never an excuse for violence within relationships, which is an insidious, prevalent and serious problem in society. The devastating impact of violence perpetrated against women in domestic circumstances is well recognised across Australia by the criminal courts and the community. For those reasons there is a strong need for a court to provide such protection as it is able to provide through the imposition of sentences that will act as both a punishment and a personal and a

general deterrent. In two separate acts you punched and then kicked the complainant. The injury she suffered could have been much worse and it is fortunate that she made a complete recovery. Those who acquire the skills in martial arts which you have, have a duty to apply them responsibly and lawfully.

In contrast, you did not intend to make contact with the baby. You did not intend to harm or injure him. Your criminal responsibility arises because you acted recklessly. In other words, you realised the risk that your actions may result in force being applied to him and you acted despite that risk. I accept that you are highly ashamed of what you did and are genuinely remorseful. You told the author of the pre-sentence report that you are disgusted with yourself. You entered an early plea of guilty. That is an important factor in your favour, especially in cases like this. It reflects your remorse and acceptance of responsibility, avoids the need for a trial and saves the complainant from the further trauma of having to give evidence. You have been in custody since your arrest on 10 June 2023, already a period of more than nine months. You expressed a willingness to complete the Family Violence Offender Intervention Program. To assist your return to the community, and to attempt to ensure that something like this does not happen again, I propose to suspend the balance of the sentence I am about to impose on condition that you submit to a period of supervision following your release.

Benjamin Bayley, you are convicted on each count. I make a family violence order for a period of two years from today with conditions to protect the complainant and your son as handed up by your counsel and which will be set out in full in the documents you will be given.

I impose one sentence. You are sentenced to a term of imprisonment of 18 months from 10 June 2023. I suspend the balance of the term for two years from today. It is a condition of that order that while it is in force you do not commit any offence punishable by imprisonment. If you breach that condition then a court must order that you serve that term unless it is unjust. I impose a further condition that, during the period the order is in force, you are to be subject to the supervision of a probation officer. The conditions which the law imposes on that order include that you must report to a probation officer at 111-113 Cameron Street, Launceston on or before 5.00 pm on Wednesday 3 April 2024, you must, during the operational period of the order, report to a probation officer as required by the probation officer and comply with the reasonable and lawful directions of a probation officer or a supervisor, you must not, during the operational period of the order, leave, or remain outside, Tasmania without the permission of a probation officer and you must, during the operational period of the order, give notice to a probation officer of any change of address or employment before, or within 2 working days after, the change. I impose special conditions that you must, during the operational period of the order, submit to the supervision of a probation officer as required by the probation officer, attend educational and other programs including the Family Violence Offender Intervention program, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer. If you breach any of those conditions you may be brought back to court and re-sentenced.