

STATE OF TASMANIA v TRISTAN JACOB HINDS
COMMENTS ON PASSING SENTENCE

19 DECEMBER 2016
BLOW CJ

Mr Hinds has pleaded guilty to charges relating to two episodes of violence. In respect of an incident on 16 December 2015, he has pleaded guilty to a charge of wounding. In relation to an incident on 29 April 2016, he has pleaded guilty to a charge of assault on a pregnant woman and to two charges of destroying property. I am dealing with those two charges under s 385A of the *Criminal Code*.

On the evening of 16 December 2015 Mr Hinds was drinking with some friends at a bus stop in Claremont when a group of people passed by on the other side of the road. He and another man crossed the road and pursued the passers-by, yelling abuse at them. Mr Hinds' companion started a fight with a man from the other group, Samuel King. They fell to the ground and rolled down an embankment. As Mr Hinds' companion repeatedly punched Mr King, Mr Hinds approached them and struck Mr King with a beer bottle to the side of his head, behind his left ear. The bottle smashed. Mr King began to bleed. Mr Hinds and his companion returned to the bus stop and caught the next bus. Police officers intercepted the bus and arrested Mr Hinds. He was interviewed by police officers in the early hours of the morning. He admitted swinging the bottle at Mr King's head and smashing it. He was granted bail by a magistrate later that day.

Mr King was taken to hospital by ambulance. Glass was removed from his wounds. He required five stitches to one laceration and a single stitch to another. The incident has had a continuing psychological impact on Mr King, but there is no suggestion that he has needed professional help as a result.

Mr Hinds' companion was fined \$500 by a magistrate for assaulting Mr King. He was not criminally responsible for the wounding.

The other charges relate to an incident on the morning of 29 April 2016 involving a woman with whom Mr Hinds had been in an on-again off-again relationship for about a year. The woman was 38 weeks pregnant at the time. They were at the woman's mother's house. Mr Hinds heard her talking to somebody on her mobile phone. He became angry. He threatened to punch a hole in every wall of the house, and slapped the plaster near the front door, causing it to cave in. One of the charges of destroying property relates to that damage.

The argument continued. The woman picked up her one year old daughter from the kitchen, picked up some other items, and walked out the back door, with Mr Hinds following her. She was carrying a cigarette lighter. Mr Hinds asked her for it. She gave it to him. She attempted to phone the police. Mr Hinds threw the lighter at her, hitting her on the neck. He grabbed her by her hair, and caused her to fall to the ground. As she fell to the ground, she felt an impact on her left side below her rib cage. After she had fallen, Mr Hinds smashed her mobile phone. The other charge of destroying property relates to that act.

The worst features of this incident are that the assault occurred very late in the pregnancy, and in the presence of the victim's one year old child. Both the victim and the child were very upset by the incident, but there is no suggestion that the unborn child, who is now six months old, was harmed in any way. Mr Hinds was of course on bail on the wounding charge at the time of this incident.

Mr Hinds is 20 years old. He has been dealt with by magistrates for eleven previous assaults. Magistrates have made probation orders, imposed community service orders, and imposed

wholly suspended sentences. By committing the offences that I am dealing with, he breached the conditions of two suspended sentences.

One of those relates to an incident on 27 April 2012. During a fight in a Bridgewater street between two women, Mr Hinds threw a bottle at the mother of one of the participants. The bottle hit the woman in the chest and smashed on the ground. On a charge of assault, a magistrate sentenced Mr Hinds to two months' detention under the *Youth Justice Act 1997*, but wholly suspended that sentence. Following further assaults, that sentence was re-suspended in December 2013 and again in October 2015.

The second suspended sentence relates to an assault in June 2014 when Mr Hinds punched a boy twice to the face. In September 2015, a magistrate imposed a wholly suspended sentence of three weeks' imprisonment in relation to that assault. Applications have been made for me to activate both of those suspended sentences. Section 27 of the *Sentencing Act 1997* requires me to activate them unless taking that course would be unjust, but there is no reason to think that that would be unjust.

Mr Hinds has had a very difficult childhood and adolescence. He has not had a home of his own since he was 15 years old. He has had difficulties with drugs and anger management. His counsel told me that he was in the grip of an Ice addiction at the time he wounded Mr King. He regrets committing these offences. The April 2016 offences have resulted in him not seeing the child that his victim was carrying. He has pleaded guilty to assaulting her only after the completion of preliminary proceedings in the Magistrates Court. However it was appropriate to defend the proceedings initially because there was an allegation of a more serious attempt to harm his victim – an allegation that has now been abandoned. Mr Hinds has been in custody since the day of the assault, 29 April, and has been drug free since that time.

In relation to each of the incidents I am concerned with – those involving Mr King and the pregnant partner – the only appropriate penalty is a sentence of imprisonment that is cumulative with the two previously suspended sentences that I will be activating. I will impose a global sentence of imprisonment that relates to both incidents. Because this new sentence comes on top of those sentences of two months and three weeks, I must make it a slightly more lenient sentence than I would otherwise impose. Because Mr Hinds is so young, I will make provision for parole, but I will impose a non-parole period somewhat longer than the minimum.

Tristan Jacob Hinds, I convict you on the wounding charge, and on the three charges relating to 29 April 2016. With effect from 29 April 2016, I activate the sentence of two months' detention imposed by a magistrate on 19 February 2013 and re-suspended on 17 December 2013 and 5 October 2015. With effect from 29 June 2016, I activate the suspended sentence of three weeks' imprisonment imposed by a magistrate on 4 September 2015. With effect from 20 July 2016, in relation to the wounding charge and the three charges relating to 29 April 2016, as a global penalty, I sentence you to 18 months' imprisonment. You will not be eligible for parole until you have served 11 months of this sentence. I make a probation order, to operate for 12 months after your release from prison, with special conditions that (a) you must attend any programs that a probation officer directs you to attend; (b) you must undergo assessment and treatment for drug dependency as directed by a probation officer; and (c) you must submit to testing for drug use as directed by a probation officer. I order you to pay your victims of crime compensation levies of \$140 within 28 days after your release from prison.