

STATE OF TASMANIA v RICHARD HAROLD HODGE
COMMENTS ON PASSING SENTENCE

7 MAY 2024
ESTCOURT J

The offender, Richard Harold Hodge, aged 36 years, has pleaded guilty to one count of assault contrary to s 184 of the *Criminal Code*. In addition, I have granted an application pursuant to s 385A of the Criminal Code for the charge on complaint 9635/22, namely one count of trespass, to be heard and determined together with the charge of assault. The facts on the complaint are closely related to the facts in the indictment and are dealt with in the Crown Statement of Facts.

The complainant is [name and date of birth mentioned]. She and the offender had been in a relationship of approximately 12 months' duration at the time of the offending.

The complainant was at the offender's house. He had been drinking heavily. He persistently attempted to begin an argument with the complainant and she became afraid. In the early hours of the morning of 18 November, the complainant left the address, jumped the side fence, and hid in a bush in a neighbour's yard. The neighbour called police.

Police arrived and spoke to the complainant, who indicated there had been a minor argument. The offender had left the address at this stage. Police assisted the complainant to remove her belongings from the house. The complainant left in her vehicle and returned to her home in Claremont.

A short time later, the offender called the complainant and asked her to come back to his house. She refused and hung up. As soon as she got off the phone, the offender was "rattling" at her front door. She opened the door and he entered the residence. He grabbed the complainant's neck with one hand and squeezed. He forced her into the kitchen. She could not breathe and became lightheaded. He then manoeuvred her onto the bed, with his hand still around her neck. She was on her back and the offender was on top of her. He straddled her and punched her to the right side of her face three times. She felt that he was going to kill her. She screamed, and her sister came and banged on the door. The offender stopped, and the complainant ran outside to her sister.

The relationship between the complainant and the offender ended after this event.

On 26 November 2022 at approximately 2.30am, the offender attended the complainant's address and attempted to gain entry. She hid on the couch under a blanket. The offender climbed onto the roof of the residence and looked through a skylight into the complainant's bedroom. She called her sister and the police.

The complainant's sister went to the complainant's residence and the offender came down off the roof. The complainant told him to leave. He began to yell, rambled incoherently, and removed his shirt. Police arrived shortly afterwards, and he was arrested.

He was taken to Hobart Police Station where he participated in a record of interview. He stated in relation to the assault on 18 November, that he had drunk heavily and did not remember much of that night. In relation to the events of 26 November, he remembered going to the complainant's house but he could not recall climbing onto the roof. He was charged and detained for court and spent two days in custody in relation to this matter.

As a result of the assault, the complainant had a black eye and a sore throat for approximately three weeks.

The offender is an Aboriginal man, who is originally from New South Wales. He is one of three siblings, and still has a good relationship with his brothers. He relocated to Tasmania in around 2015. His parents were not able to provide adequate care for him and his brothers, and all his siblings were taken in to foster care when he was around six weeks old. He performed satisfactorily at school and completed grade 11. He entered immediately into the construction industry and was employed in various labouring positions. He has an industrious history and has not experienced any significant periods of unemployment. Most recently he has been employed as a scaffolder at the company TASCAF. He has been in that job for over three years.

He has, at times, struggled with his mental health and experienced periods of depression. He has actively addressed these concerns when they have presented and has appropriately taken medication at times to manage the symptoms of that depression. He feels he is now in a more stable position in terms of his mental health and does not have any need to continue that treatment.

He recognises that he has, at times, had a problem with alcohol and since his release from custody in October 2023 he has abstained from drinking.

At the time of this offending, he had limited relevant prior convictions. Some breaches of an interim family violence order related to one occasion on 21 May 2023, when he was present at the complainant's property with her consent. There have been no alleged breaches of the interim order since that time.

From July to October in 2023, he spent three months in custody as a result of charges of breaching bail, breaches of the family violence order on 21 May 2023 and a breach of a previously imposed suspended period of imprisonment. This was the first occasion he had spent any time in custody. He describes this as a significant "eye opener", and not an experience that he wants to repeat.

Since being released from custody, he has taken steps to ensure that he does not return there. Notably, he has ceased drinking entirely. He attributes his ability to remain sober to a dramatic shift in his mindset and the salutary effect of his time in custody. He is focussing on his employment and keeping himself occupied. He has continued paying off fines previously imposed so that he can re-apply for his driver's licence.

As part of the sentence he received in 2023, he was required to complete 49 hours of community service and to submit to the supervision of a probation officer for 12 months. He has already completed his community service hours. He is engaging well with his probation officer, who has confirmed that he is doing everything he has been asked to do.

He has self-referred to the Men Engaging New Strategies program run by Relationships Australia. He was however advised that he was not eligible to take part in the program.

Community Corrections are seeking further information about this, on his behalf and are hoping to assist him to engage with that program.

Enough has been said in recent times, most notably since the alleged deaths of 26 women in Australia in four months this year, for it to be clearly understood that men who commit acts of violence against women can rightly expect limited opportunities for bail and harsh prison sentences. Fortunately, in this case, the complainant did not suffer any serious or lasting physical or psychological impacts or require any medical treatment.

The offender has pleaded guilty to his offending, and whilst the plea did not come at the first opportunity, an indication was given to the Crown that a plea of guilty would be entered following an agreement to amend the indictment and the Crown's summary of facts. His plea, in my view, may therefore be considered an early plea, given the amendment. And I note that he has not pleaded guilty to the graver crime of strangulation but to a somewhat less serious charge of assault.

Having regard to all of the circumstances, including the nature of the assault, the offender's overall history of offending and his steps to rehabilitate himself, it is my view that an immediate sentence of imprisonment is not necessary.

I impose a single sentence of 9 months' imprisonment, which sentence I wholly suspend on condition that Mr Hodge commit no offence punishable by imprisonment for a period of 12 months. In addition, I make a community correction order with an operational period of 12 months and a condition that within that period he carry out 70 hours of community service.

The charge of assault on the indictment is to be recorded as a family violence offence pursuant to s 13A of the *Family Violence Act 2004*.