

Caleb Hunter, the defendant, has pleaded guilty to one count of assault. This crime was committed on 15 July 2023 during the course of an Australian Rules football game between two reserve sides in the southern Old Scholars competition. The defendant, then 19, was playing for OHA. The complainant, Patrick Carroll, then aged 40, was playing for DOSA. They were in opposing positions on the ground. Early in the third quarter of the match, the defendant tripped Mr Carroll, which resulted in a free kick. There is some issue as to whether it was intentional or not but that is not to the point; a free kick resulted. Mr Carroll asked the defendant why he tripped him. The defendant said that Mr Carroll had blocked him to which Mr Carroll said it was an allowable shepherd. Obviously this incident caused some ill feeling. Later in the same quarter, Mr Carroll tackled the defendant during a passage of play, both men fell to the ground and play was stopped. Mr Carroll was awarded a free kick on the basis that the defendant was holding the ball. As Mr Carroll attempted to stand up, the defendant punched him once to the face with a closed fist. This caused Mr Carroll to fall to onto his hands and knees. He felt immediate pain and he had a bloodied nose. He was helped from the ground and into the change rooms. Some difficulties was encountered stopping the bleeding. Mr Carroll's 12 year old son was present and became upset. Mr Carroll called his wife who came to the ground and took him to hospital. Initial assessment indicated the possible need for surgery. Mr Carroll went home and had to take analgesics before he returned on the Monday for surgical review. Investigations revealed numerous fractured nasal bones and a laceration to the left side of the nose. Surgery under general anaesthetic was required to repair the fractures and the laceration was sutured. There is a likelihood of a scar and a nasal deviation which may need further attention. About a week after the event, the defendant was arrested. When interviewed he said there had been a bit of back and forth between them after the initial incident. He said was pushed in the tackle and hit his head, after which Mr Carroll said something to him as a result of which he snapped after getting up. He admitted punching Mr Carroll to the face. He told police he was sent off after the incident and felt very remorseful; he had cried and was sorry for what he did. He added that it was out of character for him having played 150 games and never been sent off before. He did not personally apologise at the time as he had to get stitches in a cut to his chin. He had asked his uncle – a DOSA trainer – to apologise, and his father had also apologised.

I have a victim impact statement dated 8 February 2024. Mr Carroll said that he had considerable bleeding for several hours after the incident. He could not work for a week. After the incident, he had ongoing headaches for weeks. He could not exercise for about six weeks due to pain and breathing difficulties, which he found very challenging. He has ongoing breathing difficulties and scarring to his nose. He will have to have further investigations as possible further surgery to correct his breathing difficulties has been indicated. He is out of pocket to the extent of about \$3,000 for the shortfall in his health costs. It has had a significant emotional effect on him, giving rise to general feelings of anger and frustration. He did not return to playing football for the remainder of the season, and has in fact not played since, after a 20 year football career. That is very disappointing for him.

The defendant is now 20 years old. He has no recorded history of offending of any nature. He had an uneventful, stable upbringing and still lives with his parents. He is in a stable relationship with a woman about his age, all of whom are supportive of him. He completed Year 12 but at the age of 14-15 he developed a serious level of anxiety which impacted on his life choices. It seems to have started with panic attack when he was in Grade 9. While his

plans are presently on hold, he obtained full-time work in a supermarket. He wanted to go on to tertiary education but that is on hold. He suffers from depression for which he is medicated. That notwithstanding, he is a talented athlete and particularly excels in Australian Rules football. He has played for a southern State representative side, and has had engagement with two football talent "academies", one of which was associated with an AFL club. Due to his severe anxiety, apparently particularly surrounding performance in sport, he took the step of playing in a football league at a general lower standard than he had been engaged in. In the period immediately before the particular match, he was unwell with flu like symptoms and took over the counter medication. An instruction for that medication was to not mix it with anti-depressants, accordingly he stopped taking his regular medication. Apparently that has a mood stabilising effect. He was unsure until the last minute whether he would be playing the game but, at the very late stage, agreed to do so when the coach asked him.

I was told that, as with most team sports, particularly those where physical contact is part of the game, there had been taunting and niggling between the complainant and the defendant throughout the first half of the game. I was told that immediately after the relevant tackle, Mr Carroll said to him words to the effect of "that's how you lay a tackle". He was still on top of the defendant at that stage, who was face down. The defendant's face was pushed into the ground; he believes intentionally but whether that is so or not, I do not need to resolve. A free kick was paid for holding the ball. The defendant got up, Mr Carroll grabbed the ball from him and it was then the defendant lost control and punched him. I was told that the regret was immediate. He was also immediately set upon by Mr Carroll's team mates. He was punched six or seven times to the face and upper body. I am satisfied that he did receive facial injuries in this retribution, including the cut to the chin for which he later received medical treatment. He did not respond in any way to the retributive attack, and he was then sent off field. His counsel said he was immediately ashamed and "mortified". He was embarrassed as his grandfather, father and uncle were all present. I was told his remorse and regret is profound and prolonged and he is ashamed that he may be labelled as a "dirty player". He has not played since and he is undecided about his football future. The defendant has engaged with therapy to deal with his emotions following what he did. I have a report from Dr Lusk, psychologist, dated 2 September 2023. She reports him being highly distressed with deep remorse, and significantly disappointed in himself for his reaction on the day. He feels that if he had been on his medication then he would not have responded in the way that he did. That, as Dr Lusk points out, may be supported by his long history of fair play. He has required psychological support to deal with his emotional response. I also have two character references. The first is the coach from the defendant's team, Mr Balcombe; the second is from Mr Minty, who has known the defendant for a considerable time. Both men speak of the defendant's mental health issues and both speak highly of him, suggesting the act is out of character. Mr Minty says the defendant spoke to him at length on the night of the incident, expressing deep remorse and regret, acknowledging his act was wrong and not reflective of his usual self. A Community Corrections screening report states the defendant is unsuitable for supervision due to his low criminogenic risk factors. He is suitable for community service.

Irrespective of the context, time or place, any form of violence is unacceptable. People who participate in physical contact sports impliedly consent to the application of force provided it is within the rules. There is an inevitable risk that players might suffer injury, sometimes even serious injury, in the normal course of the game. However players do not consent to being unlawfully assaulted; that is, being the victim of criminal acts. People who play such games are entitled to the protection of the law from unlawful violence. And those who might be minded to engage in such conduct must understand that such actions risk criminal sanction.

This instance was not in the course of play; it occurred during a stoppage following the award of a free kick. It was a totally unwarranted, unjustifiable and angry outburst which has caused the complainant quite significant facial injuries and an emotional impact on him. That said, I am satisfied that the defendant was immediately remorseful and immediately regretted his spontaneous act of violence. He is a young man of good character with no prior history of offending who has struggled with significant mental health issues for a few years. I take those all matters into account. I also take into account his age, and plea of guilty which, although did not come at an early stage, still has utilitarian value.

Mr Hunter, I have set out the facts, your relevant personal circumstances and the considerations I need to take into account. Often imprisonment is appropriate even in these sorts of sport assault case where lasting injury has been caused, even though often the term of imprisonment is suspended. I have given your case careful consideration and I have come to the view that an order you perform community service will adequately address the need for denunciation of this sort of conduct and the need to deter others. I am satisfied that this was an isolated aberration and that there is negligible risk of you re-offending. You are convicted. I make a community correction order for 18 months a condition of which is that perform 105 hours of community service in that period. You will have to report in person or by telephone to a probation officer at 75 Liverpool St Hobart by 5.00 tomorrow.