

STATE OF TASMANIA v KANE NORTH
COMMENTS ON PASSING SENTENCE

8 MAY 2024
ESTCOURT J

The offender, Kane North has pleaded guilty to one count of causing grievous bodily harm. He was born on 16 February 1993 and was thus aged 29 at the time of this crime. The complainant is his father, Timothy Jonathan North, who was aged 55 at the time of the crime.

On 14 August 2021, father and son were drinking wine at their home. Both were drunk. An argument occurred between them and the offender grabbed the complainant and pulled him off a couch and pushed him into a kitchen table, which connected with his back. This caused the complainant to fall to the ground in the kitchen. Whilst on the ground, the offender got on top of the complainant and straddled him. He proceeded to punch the complainant several times to the head and body and also elbowed him to the head.

The complainant called 000 and stated he had been subject to "elder abuse" and wanted to go to the hospital. He advised the operator that he felt unsafe. At approximately 10:30pm, Tasmania Police attended the address and spoke to the complainant who stated that he wanted to go to the hospital for his "mental health". He denied that anything else had occurred. Police observed that he had a black eye and bruising around his cheek. The complainant complained of a sore stomach and the attending officer observed a substantial amount of swelling around his stomach. Ambulance Tasmania were called and attended.

Upon arrival a paramedic noted that the complainant was tachycardic, which indicated to him there may have been internal bleeding. The complainant was taken to the Royal Hobart Hospital by Ambulance where he was noted to have the following injuries:

- a) A rupture to his spleen of moderate severity with ongoing bleeding;
- b) Fractures to his 10th and 11th left ribs;
- c) A fracture to his left cheek bone;
- d) A fracture to his left side jaw bone;
- e) Bruising around his right eye and groin; and
- f) Tenderness in his left ankle and lower back.

The complainant required emergency surgery to block off the artery to his spleen. He discharged himself from hospital three days after being admitted.

On 17 February 2022, the offender voluntarily participated in an interview with police. He said that he did not really remember the incident and he thought that he [the complainant] went to the hospital because he was feeling a bit "sick in the guts". He later stated that the complainant had fallen over and "*hurt himself in the gut*". He denied "*getting*" the complainant onto the floor and continually punching him to the ribs and face. When he was challenged about not being honest in relation to this incident he said "*Yeah, that's fair enough, yeah that's fair enough*". He ultimately stated that he only remembered punching the complainant twice, but it "*probably could have*" been more. He stated that he hit him "*pretty hard*". He denied punching him to the body. He stated that he "*blacked out*" but thinks he remembers elbowing the complainant to the head. When asked if he was sorry about what happened, he stated "*Yeah, I am.*"

The State accept there has been a history of violence between the offender and complainant, usually when alcohol has been consumed. This resulted in a restraint order being taken out to protect the offender from the complainant in 2020. The State also accepts that the offender was subjectively reckless only in causing the grievous bodily harm.

I have seen a victim impact statement in which the complainant has stated that the night was a terrible night for both he and his son and that he would like to say he feels that they were both to blame for what happened. He does not believe that Kane is a violent person normally and he would describe their relationship as close. He was his carer at one stage.

However, the complainant says, his son does have an alcohol problem and when he drinks he thinks about the problems in his life and the things that happened to him when he was young. He was removed from his mother's care in Queensland when he was a child. He was placed into foster care, where he was abused. He really struggles with that. He stated that "When Kane drinks, his emotions come to the surface and he cannot deal with them." He then becomes mostly verbally abusive towards the complainant, which he tries to let go of because of his childhood.

The complainant also says that when Kane was a child he witnessed family violence being committed against his mother, which also affected him deeply as he was very protective of her. Over time their relationship has broken down and he has found it very difficult to cope with that. The complainant knows that his son still struggles with that and this affects the complainant deeply.

The complainant says that he and his son are trying to put the incident behind them and that Kane has told him he is getting help for his mental health. The complainant hopes that he can help him to deal with his emotions about what happened to him when he was young, so that such an incident between them never happens again.

The complainant states that he was seriously injured that night and what Kane did was wrong. But, he says, "*Kane is my son and I love him. I will always love him and support him and I know he loves me. We want to move on and put this behind us.*"

Since this crime the offender has engaged with a general practitioner in Triabunna. He is taking medication to assist with both his anxiety and sleep. He has noticed a significant improvement in his mental health and wellbeing after reducing his alcohol intake and taking appropriate medication.

At the time of this incident the offender had no prior court outcomes, and importantly no prior convictions for offending of a violent nature. He has never previously received a term of imprisonment. He has only ever received one sentence from a court and that was on 19 May 2023 for charges of contravening conditions of a notice, breaches of bail and failures to appear. He was sentenced by way of an undertaking and a fine.

He has spent a total of 56 days in custody in relation to this crime and, in the circumstances, I am of the view that no further period of actual imprisonment is mandated.

Mr North is sentenced to a period of 18 months' imprisonment, backdated by my calculation to 11 March 2024 with the balance from today suspended on condition that he commit no offence punishable by imprisonment for a period of two years.