

STATE OF TASMANIA v TIMOTHY CHARLES ADAMS
COMMENTS ON PASSING SENTENCE

14 JUNE 2024
ESTCOURT J

The defendant, Timothy Charles Adams, aged 33, has pleaded guilty to one count of Aggravated Assault contrary to s 183 of the *Criminal Code* and s 115 of the *Firearms Act 1996* (Tas) and four counts of Assault contrary to s 184 of the *Criminal Code*.

The complainant is [name of complainant suppressed], aged 23.

The parties had been in a relationship for approximately three years, ending in late 2022. There is one child of the relationship, who was in the custody of the complainant at the time of the offending and was 16 months old. At the time of the offending, there were reciprocal Police Family Violence Orders in place. The complainant and the defendant had not been in contact with one another for about six months prior to the incident.

On Friday, 26 May 2023 the defendant contacted the complainant via Facebook Messenger and asked if she wanted to meet the following day for lunch. They did meet at Northgate Shopping Centre the following day, and from there they went to the defendant's address in Glenorchy. However, that night they had an argument about the custody of their son. During the argument, the defendant took the complainant's mobile phone from her and said that he would not give it back until he had his child.

On 28 May 2023 at about 12.30pm, the parties engaged in a further argument about their son. The defendant got out of bed and punched the complainant to her left leg while she was lying in bed. He punched her once to the shin and twice to her upper thigh using a closed fist. The complainant attempted to leave the bedroom but the defendant pulled her back by her ponytail and told her that she was not leaving until he got his child. The parties ended up falling asleep.

On Monday, 29 May 2023 the defendant was calm throughout the day until about 6.00pm when he again began verbally arguing with the complainant about the custody of their son. He walked over to where the complainant was sitting on the bed and punched her once to the right side of her forehead using a closed fist and twice to the right side of her head.

The defendant then grabbed a speargun which was sitting on the floor of the bedroom. He held it in the direction of the complainant and said "*Get our child here in the next half an hour or I am going to kill you*". The complainant sat on the bed in silence as she did not know what to do. She attempted to leave but the defendant told her she was not leaving. She sat back on the bed as she was scared. The parties ended up going to sleep.

On Tuesday, 30 May 2023 the complainant woke before the defendant at approximately 1.00pm. She saw her mobile phone sitting on the table and retrieved it and put it in her pocket. The defendant woke up shortly after and again commenced arguing with her about their child. He pinned her to the bed and told her to shut up. He punched her to both legs, both upper arms, and the right side of her forehead.

The complainant got up and left the house. The defendant did not follow her. She walked onto Anfield Street in Glenorchy, near the football oval, intending to call her mother. As she approached the gates to the oval, she saw a car with the defendant sitting in the front passenger seat. He got out and began verbally abusing her. He told her he was going to follow her everywhere until he got his son. He called her insulting names and said that she should not be a mother and that he would ring child protection about her.

The defendant punched the complainant with his right hand, just above her left eyebrow. The complainant fell to the ground and believes that she lost consciousness for a few seconds. She describes that she felt the defendant hit her, and then everything went black. When she came to she was confused and she saw blood on her hands that was coming from her head.

The defendant pulled the complainant off the ground and began dragging her to the nearby creek. He yelled that he was going to kill her and her family. He pulled her towards the creek and told her to wash her face so he could not "get done by the police".

A medical report states that the complainant reported some blurred vision to her left eye and bruising to her left thigh was observed. She was treated for a 2 cm laceration of her scalp.

The defendant has been in custody since his arrest on 30 May 2023. This amounts to a period of 382 days.

The defendant is 33 years old, as I have said already. He experienced a very disadvantaged and traumatic childhood. His mother was 20 years old when he was born, and she had a low IQ, and a diagnosis of Asperger's Syndrome. She used illicit substances to excess. During his childhood, the defendant experienced severe abuse, which included both mental and physical abuse. It is detailed in the defendant's counsel's written submissions, which are on the Court file. I will not relate them except to say that the abuse was of the worst kind and, in my view, invokes the considerations outlined in *Bugmy* and other cases.

His grandmother subsequently found out about the abuse and intervened. He commenced living with her until his mother convinced his grandmother that she was fit to care for him again. This did not, however, work out. His mother was suicidal and had contemplated a murder-suicide, killing the defendant and then herself. His grandmother again intervened, and this time obtained custody of the defendant.

His circumstances were stable whilst living with his grandmother. He was however still permitted to spend time with his father. Unfortunately, he was subject to physical abuse at the hands of his father.

This significantly impacted the defendant's childhood and his ability to engage in education. He was diagnosed from a young age with attention deficit hyperactivity disorder. He was, nonetheless, educated.

He became homeless at the age of 15 and started associating with negative influences. He experienced on and off housing instability. Despite this, he was able to complete several important courses and held several different employment positions. Unfortunately lost his employment during the COVID-19 pandemic and at the time of the offending was in receipt of a Centrelink benefit. Upon his release he would like to return to the work force.

I am satisfied from the history given that the defendant's pleas should be regarded as early pleas. The defendant has no prior record of offences of violence or family violence, and no offences contrary to the *Firearms Act 1996* (Tas).

He has, as noted, been in custody for a total of 382 days. This is the first time he has spent in custody and it is for a significant period as pointed out by his counsel. He instructs her that conditions at the prison are difficult and that it has been an "eye-opening experience" for him.

This offending comprises a course of conduct but the series of offences amounts to a serious case of family violence. Fortunately the complainant was not seriously injured physically. I note however from her Victim Impact Statement that she has had consequent mental health issues which appear to be dissipating. In all of the circumstances I am satisfied that this is not a case where a further period of actual imprisonment is required.

I impose a single sentence of 18 months' imprisonment, backdated to 30 May 2023 with the balance from today suspended on condition that the defendant commit no offence punishable by imprisonment for a period of 12 months.

I also make a community correction order with an operational period of 12 months from today. The order will contain all of the statutory core conditions and a special condition that during the operational period of the order, the defendant submit to the supervision of a probation officer as required by the probation officer.

I record the offences for which the defendant is convicted as family violence offences. I note that there is an interim Family Violence Order in place and the State has made an application for a Family Violence Order, which application I adjourn to a date to be fixed, pending, I note, further proceedings in the Magistrates Court concerning the terms of the order.