

STATE OF TASMANIA v MICHAEL LAWRENCE STANLEY COCKER

17 JUNE 2024

COMMENTS ON PASSING SENTENCE

JAGO J

Mr Cocker, you have pleaded guilty to one count of Criminal Code assault. On 11 August 2022 you and an associate, whom I shall refer to as "WH", were socialising and consuming alcohol at Princess Square in Launceston. The complainant was also there. There was a verbal exchange between you and the complainant. You say the exchange came about because you believed the complainant was following a young female, you had asked him to stop and he did not. The complainant says the exchange came about because you made some disparaging comments towards him. I do not consider it necessary to determine why the exchange arose because on any version of events, what you did next was completely unacceptable.

The complainant moved away from where the verbal exchange was occurring. WH approached him and pushed him over. The complainant fell to the ground. You then joined your associate and the two of you together kicked and punched the complainant multiple times to the head and body whilst he lay on the ground. This assault was witnessed by members of the public. It was a two against one attack. There were a number of blows inflicted to his head and his body. The complainant tried to get away and made his way outside of the park boundary. Not content with the violence you had inflicted to that point, you and your associate followed the complainant and dragged him back into the park. You then further assaulted him by again kicking and punching him whilst he lay on the ground. At times, one of you held the complainant rendering him vulnerable, whilst the other struck him. In my view, it matters not who did the striking. You and your co-accused are both criminally responsible for the assault upon the complainant. It is an aggravating feature that the two of you set upon him at the one time.

A member of the public recorded some of this incident on her mobile phone. I have seen extracts from that. The extent of violence was extensive and completely unwarranted.

During the attack the complainant lost a bag that contained his passport, a novel that was of sentimental value to him and his phone. None of these items have been recovered. It is not alleged that you are responsible for the theft of any such items, but his loss of these items as a consequence of the violence you perpetrated upon him, is a relevant sentencing consideration.

Members of the public contacted police. They arrived at the park and arrested you. The complainant was taken by ambulance to the Launceston General Hospital. By way of injury, he had swelling to the left side of his face and head and was bleeding from the nose. He was found to have sustained an undisplaced nasal fracture, a four centimetre haematoma to the left side of his forehead, a four centimetre linear abrasion to his forehead and a ten centimetre abrasion to his right pectoral region.

It seems the complainant's injuries resolved with time. No impact statement is provided but the complainant told police when he spoke to them that he was concerned for his safety.

You are 36 years of age. You have six children to various relationships. You have an amicable relationship with most of your children. By way of prior convictions, you have prior convictions in 2020 for breaching bail and breaching a Police Family Violence Order. In March 2022 you were again convicted of breaching bail conditions, breaching a Family Violence

Order and offences of resisting a police officer and injuring property. In September 2023, so obviously after the commission of this crime, you were convicted in the Launceston Supreme Court of the crime of indecent assault. You were sentenced to a period of imprisonment of one year and eight months from 27 August 2023. You were given a parole eligibility order of 10 months, but I am told you have no intention of applying for parole because you are currently without stable accommodation, and do not consider you would be successful. That sentence will expire in April 2025. Given you are currently serving a sentence, principles of totality have application.

I am told that after the incident in which the indecent assault occurred, you were forced to leave your home because of a full non-contact Family Violence Order. For a period you had a caravan on your employer's property. You were, at that time, working as a horse trainer. However, because of complications with the protected person, those living arrangements were not sustainable and you eventually lost the employment and your home on the property. You began living on the streets. Whilst you were homeless your alcohol consumption increased and your life became quite unstable.

Generally, your life has been heavily affected by alcohol abuse. Before your incarceration for the indecent assault, you had sought treatment for alcoholism but it has been a relatively short lived attempt at treatment. Whilst you have been in custody you have been assessed as having liver damage. You now say you are adamant that you are going to abstain from alcohol upon your ultimate release. You also say the time you have spent in custody has given you opportunity to reflect upon the manner in which you were living your life and you are determined that upon your release, you will look to obtain housing and employment, abstain from alcohol and stabilise your lifestyle.

Violence committed in public places is a matter of significant community concern. A number of members of the public were sufficiently aggrieved by what they saw you doing, as to contact police. General deterrence is an important sentencing consideration. Because you are already serving a sentence, I will temper the sentence I would otherwise impose, although the seriousness of your violence must still be marked.

I am of the view that you would benefit from a period of community supervision upon your release. Parole is perhaps not a viable option for you, because of the instability surrounding your accommodation. A community correction order is appropriate. I will suspend part of the period of imprisonment I impose upon you to allow you to participate in a Community Correction Order, in the hope you can receive assistance for your alcoholism.

Michael Cocker, you are convicted of the crime of assault. I sentence you to a period of 12 months imprisonment, cumulative to the period of imprisonment you are currently serving. I suspend the last four months of that period of imprisonment on condition that you commit no offence punishable by imprisonment for a period of two years. I impose a Community Correction Order for a period of 12 months, requiring you to be subject to the supervision of a Community Correction officer during that time. This order will commence upon your release from custody.

All statutory conditions provided for by the *Sentencing Act* will apply. I order that you report to Community Corrections within two days of your release from custody.