

26 JUNE 2024

COMMENTS ON PASSING SENTENCE

JAGO J

The defendant has pleaded guilty to one count of *Criminal Code* assault. In the early hours of 9 July 2023 he assaulted the complainant, Christopher Liddell, by punching him once to the side of his head. The lead-up to this incident was that the defendant and complainant were vaguely known to each other through mutual friends. They were both at a social function at the George Town Motor Inn. At about 12.25am the defendant approached the complainant and asked him if he remembered who he was. The complainant responded he did not. The defendant then said to the complainant that he believed he had stolen some of his alcohol at a social function several months earlier. As he said this, the defendant pushed the complainant. Mr Liddell moved away from this confrontation. The defendant followed him and without warning punched him to the side of the face. The complainant fell to the ground. The incident was captured on CCTV footage. I have seen it. The defendant's assault upon Mr Liddell was entirely unprovoked and unwarranted.

The following day, suffering from soreness, Mr Liddell attended his general practitioner. He was sent to the hospital. A CT scan revealed a complex fracture to the left cheek and jaw area and a fracture to the left sinus. The fractures required surgery.

I have read the complainant's impact statement. He has been badly affected by the assault. He experienced considerable pain for many weeks post-surgery. His ability to chew was affected for many months because of the pain and stiffness in his jaw. He continues to feel aches and pains even now, particularly when it is cold. The complainant has also experienced adverse psychological consequences following the assault. His mental health deteriorated. He felt scared and vulnerable and withdrew from friends and social outings. He had to stop undertaking volunteer work, a pastime he greatly enjoyed, because he was not coping. He also experienced financial loss because he had to take time off work.

The defendant is 20 years of age. He has no relevant prior convictions. He is employed and well-regarded in that employment. I accept the use of violence is out of character for him. I also accept he is genuinely ashamed and remorseful for his conduct. He has provided the Department of Public Prosecutions with a letter of apology to be handed to the complainant should the complainant wish to receive it. He has also provided this Court with a letter indicating his contrition for the incident.

The defendant recognises that very serious, at times, fatal, consequences can flow from a single strike of this nature. He has reflected upon his behaviour and is committed to not repeating it. I take into account the defendant's early plea of guilty. I accept that it is indicative of the remorse I have referenced. It has value in the sentencing process.

It goes without saying that all forms of violence are unacceptable. The defendant's conduct in delivering a hard blow to the head area of the complainant without warning is to be condemned. Violence in and around licenced premises, usually in circumstances where alcohol is involved, is all too common and attempting to deter others from the use of violence in such circumstances is an important sentencing consideration. I accept that it is unlikely that the defendant will reoffend. However the sentence needs to mark the seriousness of the crime and denounce the

use of violence generally. In all of the circumstances I am satisfied a period of imprisonment must be imposed but it is appropriate that the execution of the whole of that sentence be suspended on condition.

I make the following orders. Mr Marinkovic-Cooke, you are convicted of the crime of assault and sentenced to five months' imprisonment, the execution of which will be suspended on condition that you commit no offence punishable by imprisonment for a period of 18 months. I must warn you that the condition means precisely what it says. If you commit any offence punishable by imprisonment - and that includes most offences on the statute books – the conditions of suspension will be breached and you will be required to serve the period of imprisonment unless it is unjust to do so.