

STATE OF TASMANIA v TRAVIS ANTHONY MORTYN and TYRON PAGE

30 JULY 2024

COMMENTS ON PASSING SENTENCE

ESTCOURT J

The defendants, Travis Anthony Mortyn and Tyron James Page, were both found guilty by a jury of three counts of assault on a taxi driver and his wife and young daughter on 25 August 2020.

The two men with a third man and a woman had been driven by the male complainant to Clarendon Vale where they bought drugs. They did not pay the full taxi fare. Thereafter the complainant was called to another job and it was the same group. He took them to New Town on a promise to be paid both fares.

In the early hours of the morning one of the men rang the complainant to say that he had left his mobile phone in the taxi. The complainant located it and it was arranged that it could be collected at the complainant's residence, which was nearby in New Town. When the same group arrived and the complainant answered the door one of the three men pushed him against a wall and then all three punched him and kicked him when he was on the ground. A member or members of the group then punched the complainant's wife and grabbed and threw the couple's three year old daughter.

Although only moderately severe injuries were sustained by the male and female complainants and their child was physically unharmed, the couple who are Indian migrants, were traumatised by the vicious attack upon them at their own home. The male complainant was unable to return to taxi driving and lost income for some weeks while he looked for other work. The female complainant no longer is able to feel safe and her daughter, who is now 7, is still scared that her father or mother will be hurt by random people.

The defendants were both 28 years old and both have prior convictions for serious crimes of violence. There were no mitigating circumstances, in my view, in the case of Mr Mortyn and there is nothing to distinguish between their joint criminal liability. Mr Mortyn was sentenced to a single sentence of 18 months' imprisonment, with a non parole period of 9 months, backdated to 28 August 2023.

Mr Page is now successfully self employed as a landscape gardener and he has made significant progress in rehabilitating himself. Some three months after these crimes had occurred, in November 2020, Mr Page contacted Holyoake Drug and Alcohol Counselling of his own accord to seek assistance and he also sought assistance for his mental health issues. All this was largely to address the drug and alcohol problems that he had recognised he had. He has engaged well with Community Corrections in respect of past matters and there has been no subsequent offending of any significance or relevance.

Mr Page is convicted and sentenced to a single sentence of home detention for the maximum period of 18 months. The order will contain all the core conditions contained in s 42AD (1) of Part 5A of the *Sentencing Act* 1997. With specific consideration to s 42AD(1)(g) and (h), the following conditions are added to the Order:

- you must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device;
- during the period that you are required to submit to electronic monitoring:

- a) you must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
- b) you must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring;
- c) you must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, including in relation to the installation, attachment or operation of a device, or a system, used for the purposes of electronic monitoring by:
 - (i) a police officer;
 - (ii) a probation officer or prescribed officer; or
 - (iii) another person whose functions involve the installation or operation of a device, or a system, used for the purposes of electronic monitoring.

The following special conditions are added to the Order:

- you must, during the operational period of the order, remain at **[address redacted]** at all times unless approved by a probation officer;
- you must attend the Community Corrections office at Level 1, 75 Liverpool Street, Hobart for induction onto this order no later than 10:00am tomorrow;
- you must, during the operational period of the order, maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times;
- you must submit to the supervision of a Community Corrections officer as required by that officer;
- you must not, during the operational period of the order, take any illicit or prohibited substances. Illicit and prohibited substances include:
 - a) any controlled drug as defined by the *Misuse of Drugs Act* 2001;
 - b) any medication containing an Opiate, Benzodiazepine, Bupropion, Hydrochloride or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication; and
- you must not, during the operational period of the order, consume alcohol, and you must, if directed to do so by a police officer or Community Corrections officer, submit to a breath test, urine test, or other test, for the presence of alcohol.