

**STATE OF TASMANIA v SHAI MAREE JAYNE DAVIS**  
**COMMENTS ON PASSING SENTENCE**

**3 JULY 2024**  
**WOOD J**

Shai Maree Jayne Davis has pleaded guilty to the crime of wounding and summary offences involving two charges of destroy property and one charge of trespass.

On 28 November 2021, the defendant was with her partner, Hayley Colgrave, at her residence in Claremont when the defendant accessed Ms Colgrave's phone and discovered several messages between Ms Colgrave and the complainant, Jemma Banks. After reading the messages, the defendant accused Ms Colgrave of being unfaithful and she left the house.

The defendant knew the complainant lived in Lamprill Circle in Herdsmans Cove and drove there looking for her. She went to one of the houses, which was the home of Tristan Andrews, and kicked the front flyscreen door, destroying it. In abusive terms, the defendant demanded to know where the complainant was. Mr Andrews provided directions to the complainant's house.

The defendant drove to that address, where the complainant resided with her family. It was approximately 10:30 am on a Sunday morning and the complainant was asleep in her bed. Her father and brother were also home at the time.

The defendant walked up to the front door and kicked the glass panel in the front door, smashing it. The complainant heard the glass smashing. The defendant yelled for the complainant to, "Get the fuck out of the house". She reached through the broken glass panel and unlocked the front door just as the complainant went to the door. The defendant entered the premises without consent.

The complainant pushed the defendant in an attempt to remove her from the premises and continued to push her onto the front porch. The two yelled and hit and punched each other.

The complainant's father tried to separate them. The defendant attempted to hit the complainant, who punched the defendant to the face. The defendant attempted to stab the complainant with scissors she had in her pocket. The scissors cut a hole in the complainant's shorts and left a small cut on her left upper thigh.

The complainant reached out with her left arm to try to grab the defendant's hand that held the scissors. She grabbed the defendant's wrist but lost her grip and let go.

The defendant slashed at the complainant with the scissors in a downward motion. The scissors connected with the complainant's upper left arm, leaving a small cut, then penetrated that same area of the complainant's arm, which resulted in a 3 cm deep wound.

The complainant's father told the defendant to leave, which she did, and the police were called. The complainant was conveyed to the Royal Hobart Hospital for treatment, which involved three stitches behind her left bicep.

Police officers attended the defendant's home, where she was arrested and later participated in a video-recorded interview. She admitted stabbing the complainant with the scissors. She told police about the circumstances and that she and Ms Colgrave got engaged approximately a week ago, that the complainant had been constantly contacting Ms Colgrave, and about her discovery of messages that morning which implied Ms Colgrave had been unfaithful to the defendant.

The harm caused to the complainant goes far beyond the physical injury she sustained. Her mental health has been adversely affected to a significant extent. She suffered from pre-existing symptoms, which have been exacerbated to such an extent that she has been diagnosed with a serious mental health condition. Her symptoms are debilitating, affecting her daily life and requiring ongoing treatment. Understandably, her sense of safety in her own home has been deeply affected.

In determining the sentence to be imposed, I must consider not only the crime committed and the consequences for the complainant but the circumstances of the defendant.

The defendant is aged 29 years and has one prior conviction of violence involving common assault committed in 2012, when she was 18. It was dealt with in the Magistrates Court and a fine was imposed. She has two convictions for drive while disqualified.

The defendant's childhood and adolescence were marred by deprivation, physical abuse, and neglect. Her parents separated when she was an infant and she lived with her mother and stepfather in an environment which was both cruel and violent. When she was just 5 years of age, her younger brother died, and she recalls this clearly. It precipitated a change in her mother's treatment of her. Her mother became emotionally distant from her and there was a lack of warmth, love, and physical affection towards the defendant but not, however, towards her brother. This remained the case over the ensuing years. Her mother also actively undermined the defendant's self-esteem and confidence, leaving her to feel worthless. Her mother denigrated her father to the defendant and at times stopped her having contact with him.

Her stepfather was physically violent and abusive towards her. Her mother did not protect her from him and, at times, instigated and encouraged that violence against her.

The defendant was abused by a family friend. She realises now that as a young person she did not understand that she may be believed or even that what was happening was wrong.

At 14 years of age, she went to live with her father. He was a chronic drug addict and had complex physical and mental health difficulties. Although he loved her, he was unable to be an engaged parent. He was, at times, completely debilitated by his mental illness and by the effect of drugs and alcohol, and on one occasion attempted suicide. For the defendant, there were no boundaries, and she was left to fend for herself. She began engaging with youths older than her and smoking cannabis, disengaging from school, and living a high-risk lifestyle.

In August 2009, the defendant's father died from a drug overdose. The defendant was grief-stricken and felt she should have been there for him. Her mother did not provide her with any emotional support or basic parental care. The defendant became homeless and moved in with a paternal aunt but, given the depth and extent of her grief and behavioural difficulties, this was untenable and she was taken to a women's shelter to be cared for. She was then almost 15 years of age. Her self-destructive behaviours and drug use continued, and she was expelled from school in year 10 because of aggressive behaviour. She had been a good student in primary school and early high school.

When she was 16 years of age, she obtained a job at KFC and this provided her with an income, some routine, and for the first time a period of stability. She obtained independent housing. Then she became pregnant with her youngest son, and she describes his arrival as one of the best things in her life but raising him as a young single mother as a very challenging time. Her

son had behavioural issues and was diagnosed with autism spectrum disorder and later dyslexia. Her son is now 12 years of age and doing very well at school. He is well-behaved, respectful, and articulate. She is very proud of him.

At 19 years of age, she became pregnant again. The relationship with the child's father failed and there were significant problems in terms of co-parenting and access. Now, maintaining contact with her second son is very difficult.

In terms of the defendant's relationship with Ms Colgrave, the defendant believed it would last. Unfortunately, when the relationship faltered, she experienced an overwhelming sense of loss and an emotional undoing.

Her relationship with Ms Colgrave had become difficult and confrontational, and the complainant became involved when there was a hostile incident in the days prior to the incident, which the defendant found distressing because it happened in front of her son.

I note that four days prior to the wounding incident, the defendant presented to the Emergency Department of the Royal Hobart Hospital with self-inflicted wounds and reported distress arising from relationship difficulties with her partner. After the wounding incident, multiple presentations continued in early 2022. Ms Davis has a long history of mental health issues and contact with mental health professionals.

In terms of the defendant's attitude towards the crime she committed and her conduct, she was frank with police and accepts that her conduct was entirely unacceptable, and it seems she has always appreciated that. She is remorseful and has expressed empathy for the complainant and an understanding of the emotional consequences she has caused as well as the potential for serious injury.

The defendant's first appearance in court was on 17 January 2022. She pleaded guilty on 25 August 2022.

I accept that her early plea of guilty is demonstrative of remorse and an acceptance of responsibility for her wrongdoing. It also has a utilitarian value, saving the cost of a trial and the complainant the stress associated with having to give evidence.

The defendant has received treatment to help her better manage emotional crises. She has been prescribed medicinal cannabis which has assisted her in regulating her volatile moods and elevated sense of fear and panic, and she has also sought assistance with developing strategies to better manage her emotions and responses.

The defendant wishes to move to New South Wales to make a fresh start when that is possible. She has discovered she has a step-sister and this has proved to be a very positive development for her. She has employment opportunities there and access to good mental health services.

I have a report from clinical psychologist, Mr Damien Minehan, dated 26 March 2024. In his opinion, the defendant's history, presentation, and psychometric assessments are strongly suggestive of Complex Post-Traumatic Stress Disorder and Borderline Personality Disorder. He explains that complex PTSD is a mental health condition that develops due to prolonged exposure to traumatic events, typically involving interpersonal trauma such as repeated instances of abuse, neglect, or betrayal. It is characterised by chronic and ongoing exposure to trauma over an extended period. In Mr Minehan's view, the defendant's history and clinical

presentation are consistent with an individual who has experienced multiple traumatic events and adverse childhood experiences at that level.

The defendant's symptoms which are relevant to her offending include her sensitivity and fears concerning abandonment, history of intense and volatile relationships, and anger difficulties. In Mr Minehan's opinion, these symptoms are "significant contributing factors" to her offending behaviour.

Mr Minehan addresses the impact of a period of custody upon the defendant. He says she is prone to periods of depressive symptoms and copes poorly with interpersonal stressors. With the additional factor of being separated from her eldest son, a period of custody is highly likely to have a detrimental effect on her mental health and trigger an emotional crisis.

I am satisfied the defendant's moral culpability should be viewed within the context of the symptoms she was experiencing at the time, which reduces her criminal responsibility to a significant degree.

In this case, it is appropriate to give particular weight to her rehabilitation and less weight than would ordinarily be given to general deterrence.

Mr Minehan recommends that she continue with psychological therapy, with a Dialectical Behaviour Therapy focus; that she seeks out assistance to address her binge-drinking behaviour and reliance on substances to manage mental health symptoms and emotional crises; and that she obtain an assessment of autism spectrum disorder.

I have a report from Community Corrections dated 21 June 2024.

The defendant is suitable for a community service order and recommended for a 12-month period of supervision by Community Corrections which would provide the support needed regarding substance misuse and relapse prevention, and support in relation to her mental health, including engagement with a general practitioner to establish a mental health care plan and referral to a suitably qualified psychologist for ongoing support.

This particular crime was alarming, in fact, terrifying for the complainant. The defendant's intense and uncontrolled anger was directed at the complainant and her destructive and aggressive behaviour made it clear that the complainant was in imminent danger of serious harm. The defendant caused the complainant physical injury and significant emotional harm, which may be lasting.

The defendant was affected by symptoms of her complex post-traumatic stress disorder, leading to a volatile, ungoverned, and extreme emotional state. I also accept it was more difficult for her at that time to control her anger than it would be others who do not experience those particular symptoms.

Ms Davis, of course, the other side of that is a concern about the danger you represent when you are in such a state and, if you do not address your responses, you may react like this again. I am, however, satisfied that you understand the gravity of your crime and you are motivated to address the underlying causes of your behaviour and you are already making progress in that regard. There are very promising signs in terms of your reform.

In this case, the sentence should both reflect the seriousness of the crime including the harm caused to the complainant, and also promote your rehabilitation. Though general deterrence is not as prominent as it would be in other cases for the reasons stated, it is still a factor that must be given weight.

Balancing these considerations, I impose the following sentence. On the indictable crime and the summary offences I record a convictions. In relation to the charge of wounding, I impose 12 months' imprisonment wholly suspended on conditions that you must not commit an offence punishable by imprisonment for the period of 12 months from today, you must perform 48 hours of community service, and must submit to the supervision of a probation officer for a period of 12 months. You must, during the same period of 12 months, submit to medical, psychological, or psychiatric assessment or treated as directed by a probation officer; and must undergo assessment and treatment for drug dependency as directed by a probation officer, and submit to testing for drug use as directed by a probation officer. I impose a condition that by 4:00 pm today you must report to Community Corrections, 75 Liverpool Street, and cooperate with them fully. There are statutory core conditions that apply including that you give notice to a probation officer of any change of address or employment before, or within two working days after, the change and that you must not leave, or remain outside, Tasmania without the permission of your probation officer.

In relation to the summary offences, two charges of destroy property and one charge of trespass, they are closely tied to the crime of violence. Having regard to the sentence already imposed, I impose a global sentence of an additional period of two months' imprisonment wholly suspended on the same conditions.

I make compensation orders, pursuant to s 68 of the *Sentencing Act*, in relation to charges 3 and 4 on complaint number 104/2022, in favour of Centrecare Evolve Housing and Steven John Banks, the terms of which are adjourned sine die for assessment.