

STATE OF TASMANIA v CHRISTOPHER JOHN WORKER
COMMENTS ON PASSING SENTENCE

25 JUNE 2024
MARTIN AJ

Mr Worker you have pleaded guilty to an offence of assault committed in about February/March 2020 and an offence of wounding committed in about March/April 2020. You are convicted of both offences.

The victim on each occasion was the same 26 year old female partner with whom you had been in a relationship since November 2019. I have recorded the offences as family violence offences for the purposes of the *Family Violence Act*. Normally I would make a family violence order but one has already been put in place.

The facts of your offending can be stated quite briefly. In February or March 2020 you chased the complainant into your bedroom. The complainant got onto the bed and curled into a ball and wrapped a doona around herself. You wrestled her, got on top of her and punched her to the body. You then took her mobile phone from her and left the house. That is the essence of count 1.

The second offence in March or April 2020 began when you and the victim were in the lounge room together. An argument started. You picked up a glass pipe, which was broken and had a sharp edge, and threw it at the victim. The pipe struck the victim in the leg and lodged where it struck her. Upon the pipe being removed the wound bled freely. The victim was in pain and limping for a couple of days afterwards, but did not seek medical treatment. These matters were reported by the victim to police on 22 July 2021, over 12 months after the events occurred.

You were spoken to by police on 18 November 2021 and in an interview denied the allegations. You have now admitted those allegations through your plea.

At the time of your offending you did not have any prior convictions for violence, but after these offences your violent conduct against the victim continued. On 7 September 2020 you assaulted the victim twice. On 20 September 2020 you again assaulted the victim, this time in breach of a Family Violence Order. For those and other offences you were dealt with on 22 July 2021 and a sentence of imprisonment for 9 months was imposed for the assault committed on 7 September 2020, that was partially suspended. Those offences in September 2020 were not prior offences, but they represented ongoing violence by you against the victim.

Mr Worker, any form of physical attack upon a female partner is a serious offence. As with every crime, however, there is a scale of seriousness. Your offending is not in the most serious category, but you are a big man and your assault upon your female partner was a serious offence. The seriousness arises not just from the physical aspect of your attack upon your partner, but it includes elements of physical domination and assertion of control through that physical domination. That is, control within the relationship. This is a significant aspect of all such crimes as you have committed and men like you need to understand, and understand very clearly, that this type of physical violence and domination of female partners is not acceptable. It amounts to a crime and it is the type of crime that is far too prevalent and causes widespread disquiet throughout the community. I do not have a victim impact statement, but it is reasonable to assume that your conduct was distressing to the victim.

General deterrence, that is deterring other men who are minded to behave like you, is a significant factor in sentencing. So too is personal deterrence, that is, deterring you from offending again. In addition, a sentence needs to reflect denunciation by the community.

There are also matters personal to you which need to be carefully weighed. You are now aged 36. I have had the benefit of a pre-sentence report and a recent report by a psychologist, together with the remarks of the judge who sentenced you on 14 December 2017 for the offence of cultivating cannabis. Your offence of cultivating was committed in June 2016. When the judge sentenced you in December 2017 his Honour had the benefit of a pre-sentence report. At that time you were aged 31. His Honour said this: "He is the second eldest of four children. His parents separated when he was about 8 years of age. At the time of separation his sister, aged 13, was being treated for cancer in a Melbourne hospital and he and his mother stayed at Ronald McDonald House in Melbourne. When his sister returned to Tasmania his mother did not return and there has been no contact between him and his mother since that time. His sister returned home to Tasmania to live with him and his father and paternal grandmother and passed away aged 13 years when he was aged 11. The defendant has never addressed his grief relating to his sister's death and reportedly became visibly upset while discussing this during interview with the probation officer who prepared the pre-sentence report. The defendant advised the probation officer that he is best friends with his father who has been diagnosed with throat cancer. He commented to the probation officer that he was letting down the idol of his life and that he could not be doing this referring, I take it, to his offending. From aged 16 to 29 the defendant smoked cannabis on a daily basis. In 2016 it appears he stated using methamphetamine initially casually until this habit also became a daily habit. He has been assessed and deemed suitable for community service orders. He has also been assessed as requiring a high level of supervision. Focus on his supervision would be to address his substance abuse and attending counselling related to his grief and loss. Due to identified substance abuse issues which are related to his current offending he has been assessed for the EQUIPS Addiction Program. He has been assessed as eligible for referral to the program."

To that summary must be added the helpful history and observations of the pre-sentence report provided to me and of the psychologist who saw you on 19 March 2024. In brief summary of the more notable features from the report of the psychologist – first, you suffered abuse as a child. Secondly, the relationship with your father remains volatile. Thirdly, you have a lengthy history of substance abuse, particularly crystal methamphetamine. Initially it appeared from the report of the psychologist that your substance abuse is ongoing. However you conveyed clearly to the probation officer that you have for some time abstained from the use of any drugs, and those are the instructions your counsel has conveyed to me. In addition, the psychologist has clarified that you indicated to him you have ceased the use of both alcohol and cannabis, but made no comment regarding methamphetamine use. I am satisfied it is appropriate to proceed on the basis that for some time you have abstained from the use of methamphetamine.

The fourth matter by way of summary from the psychologist's report is that a number of claims you made to the psychologist about various medical conditions lacks support in health and medical files. There seems to be no doubt, Mr Worker, that you are suffering from a number of medical conditions, but it may be that from time to time you have exaggerated those conditions in the sense that you may well believe that you are suffering from conditions and believe that your condition is worse than it actually is. I cannot make any specific finding about that but the report of the psychologist suggests that this may be an issue for you at this time.

The fifth matter from the report of the psychologist concerns your multiple personality vulnerabilities including "ongoing suspiciousness and mistrust of others, emotional instability, impulsivity, deceitfulness, irresponsibility and a general failure to conform to social norms with respect to lawful behaviours". The report continues that you "generally chose to minimise his offending behaviour when explaining during the interview. Mr Worker meets the DSM-V criteria for anti-social personality disorder".

At the time of your offending against the drug laws in 2016 you had amassed a significant number of convictions for offences against the road traffic laws since 2004. That type of offending continued after 2016 and was joined in 2017 by offences of dishonesty. Over the years you have breached court orders relating to bail and suspended sentences. Mr Worker, your prior history of offending and breaches of court orders in themselves do not inspire confidence as to your prospects for the future.

In the context of such breaches I have before me an application to breach a suspended sentence imposed by Justice Estcourt on 9 December 2022 and a community correction order. There is quite a long history to this, but in brief, it appears that on 14 December 2017 a sentence of imprisonment totally suspended was imposed for the offence of cultivating cannabis. There was a two year operation period and it was a condition that you commit no offence during that two years. That period has expired so that matter can in a sense be discarded. However there was also a community service and probation order requiring you to perform 98 hours of community service. On 9 December 2022 that community service order was cancelled. In its stead you were sentenced to imprisonment for 11 days, that is for your original offending, which was suspended with an operable period of 12 months and a condition that you complete 77 hours of community service. In addition, a community corrections order was put in place which was operable for 12 months, and it was a condition that you perform 77 hours of community service. That order expired on 9 December 2023 by which time you had completed only 3 hours. Two hours of which was for attending an induction program and one hour for attending one literacy program session at the Kingston Library. It is readily apparent from the material before me that there were issues associated with your bail conditions as well as your poor literacy which played a role in your failure to complete the hours. I cannot avoid the conclusion that you made no real effort to comply. In a rather passive way you did your best to avoid completing the required hours.

Coming to your current circumstances, you are now devoting yourself to caring for your ailing father. You have enjoyed a period of stability in your life which includes regular contact with three of your children, particularly the eldest. You currently suffer from a number of medical conditions including ulcers, and you are on the urgent list for a further examination related to the discovery of the ulcers. Counsel has urged that your period of stability is a good sign for the future and urged also that the interests of the community are best served by allowing your stable life to continue with the assistance of probation.

Mr Worker, normally your type of offending would result in a term of imprisonment, and at least some of which would be served. It needs to be born in mind that the offending goes back to early 2020 and in the meantime you have made significant progress in your rehabilitation and your lifestyle stability. Allowing that progress to continue is in my view the best way of protecting the public in the future. Prison would have the opposite effect. I emphasise that the resulting sentence should not be seen as an appropriate result for the vast majority of these types of cases. There is a special combination of circumstances in play and I regard your case as not a good example to be set up from the point of view of general deterrence.

I earlier convicted you of both offences. You breached the suspended sentence, that was the suspended sentence of 11 days, but in respect of that breach I make no order. As to the community corrections order of 9 December 2022, I am satisfied you breached a condition, that is, that you perform 77 hours. I am required to deal with you now, because of that breach, even though the order has expired, in respect of the original offending. In respect of that original offending I make home detention order with an operational period of 3 months from today. With respect to your current offending, that is the two offences, I impose a single penalty and I order home detention with an operational period of 9 months from today. Both home detention orders are for an operational period which commences today, one of them is 3 months the other is 9 months, being served together at the same time. The effect of which is that you are on home detention for 9 months from today.

There are a number of conditions. All core conditions contained in s 42AD(1) of the *Sentencing Act* are imposed. In addition, I impose the following conditions:

- 1 You must during the operational period submit to electronic monitoring, including by wearing or carrying an electronic device.
- 2 During the period you are required to submit to electronic monitoring, 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.
- 3 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.
- 4 You must comply with all reasonable and lawful directions given to you the electronic monitoring, including in relation to the installation, attachment or operation of a device or system used for the purpose of electronic monitoring. That is by a police officer, a probation officer or prescribed officer, or any other person whose functions involve the installation or operation of a device or a system used for the purposes of electronic monitoring.
- 5 You must during the operational period of the order remain at [address specified] at all times unless approved by a probation officer.
- 6 You must attend the Community Corrections Office at Level 1, 75 Liverpool Street, Hobart for induction into this order.
- 7 You must attend this service for induction during normal business hours and no later than 10am on the first business day after this order is made.
- 8 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.
- 9 You must submit to the supervision of a community corrections officer as required by that officer.
- 10 You must not during the operational period of the order take any illicit or prohibited substances. Illicit and prohibited substances include any controlled drug as defined by the *Misuse of Drugs Act*, 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.
- 11 You must not during the operational period of the order consume alcohol and you must if directed to do so by a police officer of community corrections officer, submit to a breath test, urine test or any other test for the presence of alcohol or any other drug.

In addition I make a community corrections order with an operational period of 12 months. The core conditions in s 42AO apply. To the extent that there might be a conflict between the

conditions under s 42AO and s 42AD, s 42AD should prevail. In addition to the operational period of 12 months and those core conditions, it is a condition that you commit to the supervision of a probation officer as required by the probation officer. You must during the operational period of the order undergo assessment and treatment for drug dependency as directed by a probation officer. You must during the operational period of the order submit to testing for drug use as directed by a probation officer. You must during the operational period undergo assessment and treatment for alcohol dependency as directed by a probation officer. You must during the operational period submit to medical, psychological, or psychiatric assessment or treatment as directed by a probation officer. You are to obey the reasonable directions of your probation officer as to your place of employment and your associates.

Mr Worker, you are under the supervision of a probation officer for the next 9 months. You are confined to home detention and you will not leave the home unless the probation officer gives permission for you to do so. You are required to obey all reasonable directions of a probation officer, including things like where you might work or who your associates are. In other words, you need the probation officers permission to do all of these things. You are not allowed to drink alcohol; you are not allowed to take drugs; you can be tested at any time. They are very strict conditions, but the only alternative to that is to send you to gaol. I am taking an unusual course and giving you another chance but if you commit further offences or do not comply with directions or these orders you cannot expect a court in the future to show you any sympathy whatsoever. Your being given an exceptional opportunity so make the most of it.