

STATE OF TASMANIA v DARREN MARK WAKE
COMMENTS ON PASSING SENTENCE

24 JULY 2024
WOOD J

Darren Mark Wake, you have pleaded guilty to the murder of Rachel Anne Wake, your former wife, on 25 December 2021.

Ms Wake was 52 years old when you murdered her. She was the mother of Romany and Gabriel, who were aged 19 and 16 at the time. You are their father.

You and Ms Wake married in 2001, separated in 2011, and divorced in 2012. After the separation and divorce, your relationship was difficult, particularly regarding the parenting of your son, who had been diagnosed with autism spectrum disorder.

In 2016, the Family Court made parenting orders for a "week on, week off" custody arrangement. This arrangement changed as time went on and the children began to exercise their own judgment about who they wished to reside with.

In mid-2019, when Romany turned 17, she decided to live with her mother on a full-time basis.

From 2020 to 2021, Gabriel resided with you full-time for a period of approximately 12 months. This was at your insistence.

In April 2021, however, Gabriel decided he wished to reside with his mother on a full-time basis. His decision was based on what he felt was your angry, aggressive, and emotionally manipulative behaviour towards him. Gabriel became scared of you as a result, and Ms Wake expressed to Gabriel that she was scared of you, too.

The relationship between you and Ms Wake became increasingly acrimonious as you differed on matters regarding how best to parent Gabriel. For example, you did not agree that Gabriel had autism spectrum disorder, and you wished to enrol him at a school interstate.

Gabriel did not wish to see or speak to you after he moved in with Ms Wake. Consequently, you saw very little of your son. You blamed Ms Wake for this, and became angry and particularly resentful about the situation. This was, ultimately, both the catalyst and the motive for the crime.

On 3 December 2021, you purchased a small folding knife or 'flick knife' on eBay. The knife was 11 cm in length when folded closed, and 22 cm in length when open.

You received the knife by post on 9 December 2021.

An appointment had been arranged for Gabriel to see a psychologist, Dr Julian Watchorn, on 22 December 2021. You had arranged this appointment with the assistance of family lawyers. Gabriel and Ms Wake did not attend the appointment, and this upset you as you believed your best chance of reconciliation with your son was through Dr Watchorn.

On 23 December 2021, you sent two emails to your employer. You were employed as a registered nurse at the Royal Hobart Hospital. You sent an email in the morning stating you would be off sick for the remainder of the week and all of the following week. Later that same day, you sent an email resigning from your employment.

You tidied your house and paid a number of bills. You then booked a return Uber from your home in Barrack Street to Ms Wake's home in Mornington to visit Gabriel. You intended to physically assault Ms Wake if she tried to prevent you from seeing your son.

When you arrived at the house, you were met by Gabriel, who came outside. You had a positive interaction, and you felt the relationship had 'rekindled'. You stayed for a few minutes and then returned home, feeling positive about your relationship with your son.

You arranged for your children to come to your house on Christmas Day at about midday to open presents together.

You expected Gabriel to come after your positive interaction two days prior. Gabriel, however, did not want to go. You sent text messages to Romany repeatedly asking her to get her brother to come. Romany did not reply to these messages.

Romany arrived at your house on her own. You were upset that Gabriel was not with her. You and Romany exchanged presents and you went upstairs. You came back down approximately 10 minutes later and apologised to Romany for taking so long.

You said to Romany, "Let's go and give your brother his present and then we can go and get a coffee".

Romany sent her mother a text message saying her father really wanted to see Gabriel and was thinking of calling in before work to give him his present. Ms Wake responded by saying, "That might work".

You and Romany left the house at approximately 1:00 pm in Romany's car. You took Gabriel's present and the folding knife with you in a small bag.

You took the knife with you with the intention of using it to cause violence to Ms Wake if she prevented you from seeing Gabriel.

The journey in the car took about 15 minutes and you arrived at approximately 1:15 pm. Romany sent her mother a text message saying, "I'm in the car but Dad is coming down".

Romany parked the car on the street outside the house. You said you wanted to give Gabriel his present and give him a hug and make sure he was alright. You got out of the car and took Gabriel's present. You had the knife in your pocket. Romany stayed in the car.

You rang the doorbell. Ms Wake answered and you told her you wanted to see your son. Ms Wake went inside the house and into the study, where Gabriel was using the computer. She asked Gabriel whether he wanted to see his father and Gabriel said no. Ms Wake went to the front door and told you that Gabriel did not wish to see you. You said you wanted to give Gabriel his Christmas present and took a step inside. Ms Wake said she did not want you inside the house and to leave immediately, or she would call the police.

You took another step towards Ms Wake. She raised her voice at you and waved her arms. You took the bag containing the knife out of your pocket, removed the knife, and opened it. You moved towards Ms Wake, grabbing her by the clothing at the front of her neck.

You then stabbed Ms Wake repeatedly to the neck and chest, intending to kill her. Overwhelmed by her injuries, Ms Wake collapsed on the ground. You stabbed her 17 times in what was a determined, vicious, and brutal attack.

In addition to these stab wounds, you inflicted a further 7 knife injuries to Ms Wake's arms and hands. Some of these were inflicted when she held up her arms and hands and tried to ward off her attacker.

Gabriel was in the study and heard someone screaming, "Stop". He ran from the study, yelling, "Stop, stop".

He saw you hunched over his mother, holding a knife. She was covered in blood, and there was blood all over the floor. He could hear the sound of her choking.

Gabriel ran to the study in a highly distressed state. You came into the room and said, "What the fuck are you doing, call an ambulance". Gabriel called triple zero and told the operator his dad had just stabbed his mum.

You ran outside to Romany, who was still in the car, and said, "I've just killed your mum, call 000". You had blood all over your arms. She rang triple zero and you ran back into the house.

Ms Wake was still breathing, and you commenced CPR. You took the phone from Gabriel and spoke with the operator. You provided information such as who had been stabbed and the address, and you told them you were a registered nurse. You also provided the operator with information about Ms Wake's injuries.

Gabriel returned to the study where he covered his ears and shut his eyes in response to the scene of unimaginable horror he had witnessed.

Police arrived approximately 5 minutes after the call was made. Romany was screaming outside in the company of two neighbours. Police went inside and found Ms Wake collapsed on the floor a couple of metres inside the front door. There was a significant amount of blood on and around Ms Wake, and police administered first aid to her.

You had been trying to assist Ms Wake and you were on the phone to the ambulance when police officers arrived. You admitted to police that you were the person responsible, and you were arrested.

An ambulance arrived a short time later, and medical assistance was provided to Ms Wake. She was taken to the Royal Hobart Hospital but died soon after arrival from the injuries to her chest and neck.

After your arrest, the police found the folding knife covered in blood on the kitchen bench. You admitted the knife was yours and that you brought it to the house. On your way to the police station and prior to the interview, you made further admissions.

You participated in a formal video record of interview. You admitted stabbing Ms Wake, and that you had no excuse. You minimised your conduct to a degree by describing the stabbing as "just pushes" of the knife.

You told police you could not remember how many times you stabbed Ms Wake. At one point, you demonstrated stabbing her three times, once to the neck and twice to the chest. It is said

on your behalf in counsel's plea in mitigation that this reference to the number of times you stabbed her was not a lie or an attempt to minimise your conduct, but rather that your memory of what you had done was not clear and that was the extent of your recall. That explanation is accepted by me.

You made admissions about what you did on 23 December. You said that when you found out that Gabriel had not attended the appointment with Dr Watchorn, you decided to "give up on the legal system" and to go around to Ms Wake's house and see Gabriel. You were prepared to assault Ms Wake if she prevented you from doing so. You anticipated that if you did do this, Ms Wake would immediately call the police, pursue a complaint, and that you would have a conviction for assault, so you resigned from your job, paid your bills, and cleaned your house.

You told police you felt things were back on track after that visit because Gabriel came out of the house and gave you a hug. You were therefore surprised and upset that Gabriel did not come to your house with Romany on Christmas Day.

While you admitted responsibility for stabbing Ms Wake, you lied to police about aspects of what you did on Christmas Day and the reasons for your actions. You said the reason you took the knife to the house was because you purchased it for Romany, and you were going to give it to her for Christmas. You said you had no intention of assaulting Ms Wake when you went to the house and that your reason for stabbing her was to stop her screaming.

At one point, you said that you did not have a plan and that it was more that you were thinking if you killed her, it would guarantee Gabriel's future, and you wished her dead because it would be a solution to the problem if she were to 'disappear'. While this is not a case of pre-meditated murder, your response in this interview is revealing about thoughts you had and the extent of your resentment towards Ms Wake.

You expressed remorse during the interview, and said that you hoped she would not die, but that you could tell from her injuries that it was highly likely. You told police you profoundly regretted what you had done. I accept your regret was immediate and genuine.

Your interview, however, demonstrates a lack of insight regarding the full extent of your criminal responsibility. You gave lengthy accounts to police of your many frustrations with Ms Wake with respect to your relationship, blaming Ms Wake for your lack of access to and information about your son, as well as her parenting decisions.

You expressed a strong and entrenched grievance towards Ms Wake, and you blamed her for the situation regarding your relationship with your son. In your interview, you showed no insight into the fact that your responses were extreme and unjustified, or that you were responsible for allowing your bitterness and anger to develop in this way.

The depth of your anger and resentment, and your attribution of blame and heightened grievance towards Ms Wake ultimately led to your appalling violence.

On 30 December 2021, you indicated to police that you wished to be interviewed to clarify some aspects of your previous account. During this interview, you changed your explanation for resigning from your job and paying your bills in the lead up to 25 December. You stated you had resigned from your employment for reasons unrelated to Gabriel and that you had not heard from Dr Watchorn prior to tendering your resignation.

Police investigation of your computer and emails revealed these statements in your second interview were lies. You had, in fact, corresponded with Dr Watchorn about Gabriel's failure to attend the appointment prior to sending your resignation to your employer, as stated in your original police interview. You also said you had no intention of assaulting Ms Wake when you went to the house on 23 December to see Gabriel. You lied to police in that respect, as well.

An autopsy revealed the deceased had 24 separate knife injuries, including 17 stab wounds. There were three stab wounds to Ms Wake's face and neck, one of which penetrated her left jugular vein; four stab wounds to the upper chest with penetration of the right lung; a stab wound to the left breast with penetration of the left lung; three stab wounds in the right axilla with penetration of the right chest wall and right lung; a stab wound in the left axilla; two stab wounds in the right shoulder: a superficial stab wound to the abdomen; a stab wound on the right elbow; and a stab wound through the left upper arm. The deepest wound was 97 mm. The other 7 knife injuries were mainly to the deceased's hands and arms.

You did not have any alcohol or drugs detected in your blood.

This is a particularly serious example of the crime of murder.

This was a brutal and vicious attack carried out for reasons of anger and resentment. It was also a determined attack, involving repeated stabbing with a knife inflicted with the specific intention of killing Ms Wake.

Your violence was not a spontaneous response to an unexpected emotional situation. In fact, you had anticipated the very situation that developed.

Your moral culpability must be regarded as very high. In the days leading up to 25 December, you knew your grievance and resentment towards Ms Wake was escalating and that your intentions had turned to violence.

You had time and opportunity to reflect upon your intentions, and to take steps to avoid causing harm to Ms Wake, such as by removing yourself to another place or by seeking help, but you did not.

On the day of the murder, you went to the house intending to assault Ms Wake. You took with you a dangerous knife, and intended to use it to cause violence to her if she prevented you from seeing your son. You were not deterred by being in your daughter's company, by knowing your son was in the house, or by your responsibilities to them as their father.

You went to the house knowing you were a danger to Ms Wake and that she was at real risk of harm, and you hid that from her. Again, this is a circumstance bearing on your culpability.

There are other factors that are relevant to an assessment of the gravity of your offending, and which must be reflected in the sentence.

An aggravating factor is that your victim was your former wife and the mother of your children. Because of that relationship, she was entitled to trust that you would not harm her. The crime you committed was a shocking breach of the trust inherent in that relationship.

Ms Wake was unsuspecting. You gave her no warning of your violent intention, and she had no chance to flee or protect herself. Confronting her as you did, aggressive and armed with a knife, and given the considerable disparity in your size and strength, meant she was helpless.

She tried to ward off your blows, but you persisted with your attack until you had stabbed her 17 times. You killed her in her own home; a place she should have been safe from harm.

Ms Wake did nothing to provoke the attack. She did what you asked her to do and then relayed her son's response to you that he did not want to see you. She stood her ground when you insisted on entering her house to see your son against his wishes, and without her permission. She was entirely justified in doing so.

There is nothing that mitigates the circumstances of the crime or your failure to control your anger. You allowed your self-righteous resentment and anger to dictate your actions.

The crime was further aggravated by the fact that it was committed when your son was in the house, and you knew he was there and that your daughter was close by. You showed no regard for the impact your violence would have upon them and subjected them both to the aftermath of their mother's murder. They are, like their mother, innocent victims of your terrible crime.

The crime you committed was a profound breach of your duty as a parent.

There is in this case another dimension to the presence of your children which is concerned with Ms Wake's suffering.

Ms Wake suffered the terror of being viciously attacked, and the realisation that your attack was relentless. She must have realised, in those moments, that your purpose was to inflict lethal force, and she endured that knowing her son was there, in the house, and her daughter close by.

Before turning to your personal circumstances, I consider the effect your crime has had on others close to Ms Wake.

Victim impact statements were provided by Ms Wake's daughter, Romany; her mother, Ms Sierink; her step-father, Mr Sierink; her brother, Mr Coward; and her partner, Mr Woods, which they each read in Court.

You took away from Ms Wake her most precious right; her right to life. You have deprived your children of their mother, and her family and partner of their future lives with her.

It is clear from all of the victim impact statements that Ms Wake was a kind, thoughtful, and sensitive person. She was a loving and devoted mother, who took joy in her children and always put their needs first. She loved being a midwife and made an important contribution to her community in this role.

Losing her in such an horrific event has been severely traumatising for her family and partner. They have, in their statements, described in both moving and eloquent terms their profound grief and anguish.

The trauma of what happened is overwhelming for Romany. She describes her mother as her rock and her critical support and losing her as unbearable. She feels as if her spark for life has disappeared.

She has been diagnosed with Complex Post-Traumatic Stress Disorder, a serious condition which pervades her everyday life. She struggles with regulating her emotions and responses. She finds it difficult to trust people now, which has affected her existing friendships and her

ability to make new friends. She suffers from severe anxiety attacks, which undermine her emotional and physical well-being, and she suffers from a form of survivor's guilt which preoccupies her thoughts and overshadows her life. She is confronted with constant reminders of the terrible events in her home where the murder happened.

Ms Wake's mother, Ms Sierink, has lost her only daughter and describes in poignant terms her agony and grief. Her daughter's murder has caused her pain she will never recover from. She misses her terribly.

Ms Wake's step-father, aged 84, has experienced tragedy and grief in his life but he cannot process or come to terms with the terrible way his step-daughter was killed.

Ms Wake's brother, Mr Coward, was close to his sister and her death has changed him. He now has depression, cares less about himself, is indecisive, and struggles with motivation. He speaks of the overwhelming effect Ms Wake's death has had on his family and his mother, and his own feelings of sadness and numbness.

Ms Wake's partner has been deeply affected. He describes her as a beautiful person, a gentle light in his life, and that he never thought he would share his life with anyone like her. He thinks of her every day with sadness.

The insight provided by these victim impact statements is exceptionally important to the sentencing process. They bring home the reality and devastating consequences of this crime, and they underscore the sanctity of human life which, ultimately, must be reflected in the sentence for this, and every, crime of murder.

The sentence must reflect your personal circumstances as well as the nature of the crime. After the attack, your remorse in the face of the reality of what you had done was immediate. This was demonstrated by your actions in calling an ambulance and administering CPR to Ms Wake.

You co-operated with authorities and made extensive admissions.

While I accept that your remorse was genuine, and ongoing, I note the lies you told police in both interviews. This suggests that while remorseful, you were also motivated by self-preservation to minimise aspects of your responsibility.

You are a man of mature years. You were 60 years of age at the time of the crime and you have no prior convictions. You had, until the commission of this crime, led a law-abiding life. You were, before your resignation, employed as a registered nurse.

I also take into account that, importantly, there is no suggestion that prior to the commission of this crime, you had been physically violent towards Ms Wake, or anybody else. This is a factor that distinguishes this case from some other cases of domestic murder.

You do not seek to mitigate what you did, in fact, you acknowledge that your appalling crime cannot be mitigated.

I note that you have spent several weeks of your time on remand in protective custody. It is not uncommon for remandees or prisoners to be placed in protective custody due to concerns about their safety and, in this case, prison authorities have assessed you as being at significant risk in the mainstream prison population. The conditions under which you are housed are

restrictive and presently you have structured time of an hour out of your cell per day for exercise.

For the purpose of sentencing, I must take into account the conditions under which you have been remanded and under which you will serve your sentence. It seems likely that you will need to remain in protective custody for an extended period after sentencing. I can also assume that during that time you will have reduced access to rehabilitation and other programs compared with other prisoners. Accordingly, I have taken your protection status into account in sentencing you.

You pleaded guilty on 11 December 2023, almost two years after your criminal offending and almost 12 months after you were committed to this Court. While it was a late plea of guilty, it facilitated the course of justice and should be given weight in mitigation. Your plea of guilty has saved the community the cost of a trial and has avoided witnesses having to recount traumatic events, and family having to experience the stress associated with a trial. Your plea of guilty should be given weight in mitigation but not as much as if you had pleaded guilty at an early stage.

There is a matter that is relied upon that has been the subject of written submissions and that will be dealt with in some additional comments published only to the parties.

Finally, I note in relation to your personal circumstances that you remain remorseful and deeply regretful. It is my conclusion that you have demonstrated prospects of reform.

Having regard to these considerations, particularly your age, lack of prior criminal convictions, previous law-abiding life, and your immediate and continuing remorse, there does not seem to be a likely prospect of future violent offending. The crime arose from a specific set of circumstances and your uncontrolled anger and resentment in response to those circumstances. I accept there is not a particular need for specific deterrence in this case.

In this case, however, the sentencing goals of general deterrence, denunciation, and just punishment are of primary importance.

The sentence must be justly proportionate to the gravity of the crime in this particular case, and to your moral culpability. This case involved a deliberate and unprovoked killing of a defenceless woman and a very high level of moral culpability.

Family violence is a serious problem in our community. The courts are frequently faced with male offenders like you; angry and embittered, who respond with brutal violence towards their partners or former partners. All too often, such violence results in the death or serious injury of the women concerned.

The murder of a domestic partner or former partner is the most extreme form of family violence. It is abhorrent to our society and demands condemnation in the strongest terms. The sentence must reflect the sanctity of human life and communicate in clear terms this Court's denunciation on behalf of the community of your violent criminal conduct towards Ms Wake. The aim of denunciation is to reassert societal values and give proper weight to the harm done to victims: *DPP v NOP* [2011] TASSC 15 at [41].

The sentence should also deter others in domestic settings from responding with brutal and lethal force. The Court's responsibility, as a high priority, is to protect those who are at risk of

being victims of such violence. In order to fulfill that responsibility, significant weight must be given to general deterrence.

The sentencing aims of general deterrence, just punishment, and condemnation are particularly demanding considerations in this case for the reasons I have mentioned, and point to the need for heavy punishment.

The sentence must also reflect your personal circumstances and matters in mitigation, particularly your remorse, your plea of guilty, and your lack of prior convictions. I have taken into account your prospects of reform.

I have a discretion in relation to the non-parole period. The non-parole period should be "the minimum time that a judge determines justice requires that the offender must serve having regard to the circumstances of the offence": *Power v The Queen* (1974) 131 CLR 623 at 629. The gravity of this crime, including your criminal culpability, weighs heavily in the exercise of my discretion, as do the sentencing aims of punishment, general deterrence, and denunciation. A lengthy non-parole period is warranted.

For a reason published only to the parties, I have reduced the period of ineligibility for parole by three years and to a lesser extent reduced the head sentence.

Taking into account and balancing all of these considerations, I impose the following sentence.

Darren Mark Wake, you are convicted of murder and sentenced to a term of imprisonment of 26 years from 25 December 2021. I order that you not be eligible for parole until you have served 17 years of that sentence.

Pursuant to s 13A of the *Family Violence Act* 2004, I direct that this crime be recorded on your criminal record as a family violence offence.