

Mr Glover, you have pleaded guilty to one count of assault. In the early hours of 2 November 2019, you and another man, Mr Kent, planned to meet your brother, the complainant, in a local park in East Devonport. The meeting was arranged under the pretext of purchasing cannabis, but your intention was to confront your brother, and assault him because of a falling out over some family matters. Mr Kent was there to prevent anyone from approaching you and your brother whilst you "sorted the grievance out".

Whilst at the park, Mr Kent was armed with some weapons. It is not clear whether he took them with him or acquired them at the park. Whilst you were aware of the presence of the weapons, there was no intention that they be used during the assault. Indeed, there was no intention for Mr Kent to become physically involved in the assault. You intended to assault your brother alone by punching him. What, in fact, happened was as your brother approached you, Mr Kent struck him from behind with one of the weapons which caused him to fall to his knees. Mr Kent then struck the complainant a second time causing him to fall flat onto the ground. Mr Kent then stole several items from the complainant, including a wallet which contained his bankcards, \$1,000 in cash and some tobacco items.

Mr Kent pleaded guilty to the crime of aggravated armed robbery and was sentenced accordingly. I have had reference to the Comments on Passing sentence relevant to Mr Kent, but in my view, the principle of parity is not applicable given the different charges and the different basis of criminal liability. You have pleaded guilty to the crime of assault on the basis that you accept that you entered into an unlawful common purpose to assault your brother and the assault that was occasioned upon him was a probable consequence of that unlawful common purpose. The State accept your criminal liability arises on that basis.

After you and Mr Kent left the park, the complainant was able to call triple zero. He was subsequently taken to the Mersey Community Hospital. He required staples for a three centimetre laceration that was behind his left ear. He also had bruising to his scalp. There was no internal head injury.

Whilst you did not inflict any blows upon your brother, your moral culpability nevertheless remains high, as you lured him to a park in the early hours of the morning intending to assault him and you took with you another person who was armed with weapons. Given those circumstances, it was almost inevitable in my view that the situation would escalate. It is fortunate the injuries sustained by the complainant were not worse.

I have read and considered the complainant's victim impact statement. He has been badly affected by the assault. The injury itself was painful for him. He has been left with feelings of anxiousness and no longer trusts people. He often experiences episodes of panic and is prone to anger easily. He understandably feels betrayed by your behaviour, given your family relationship. Whilst there were difficulties that existed between you and him and the wider family prior to this incident, the opportunity for any such difficulties to be resolved has now been lost because of this act. He feels he has lost any opportunity therefore to reconcile with his family.

You are 27 years of age. You are in receipt of a Disability Support Pension. You were involved in a car accident in July 2018 in which you damaged your T-12 vertebrae, leading to partial

paraplegia. Extensive hospitalisation, including multiple surgeries, followed. There was then extensive rehabilitation. You have been left with residual balance and endurance difficulties, reduced mobilisation, bladder control issues and chronic pain. You are now unable to work. Prior to the accident, you had a good work history, predominately in the retail sector. You grew up in a difficult environment. Your upbringing exposed you to considerable family violence. I am told your father was regularly violent towards your mother and as you got older, he also turned his violent tendencies towards you. The volatile nature of your home environment was to the extent that you were taken into foster care for periods of time.

You have experienced drug abuse issues for many years. You started using cannabis from a young age. You lost a friend during your teenage years which saw you graduate to the use of more serious drugs, including methyl amphetamine. You ceased the use of that substance for a period after the accident but then relapsed. In 2021, you enrolled in Missionsdale and completed five months as an in-patient. Save for one short period of relapse in 2022, it appears your rehabilitation has been successful. To your credit I am told that you have been drug free for the last two years.

Apparently, there has been considerable ill-feeling between you and your brother for several years. Your brother has also experienced a number of difficulties with drug addiction, and at one point was ordered from your mother's home because of it. He went to live with his maternal grandfather and your belief is that he stole money from your grandfather. This led to a significant family falling out and it is this issue that led to you wanting to challenge him on the occasion of this assault.

Whatever your motivation for wanting to assault your brother, it was not justified. The use of violence to settle grievances is never acceptable. Your plan placed your brother in a situation whereby he was set upon from behind by a person using weapons. He was vulnerable. He was not expecting the blows, and he was not able to defend or protect himself. People, including you, need to understand that the use of violence to settle grievances can so easily escalate out of control and consequences that are entirely unwanted and unexpected can readily arise. General deterrence and denunciation are therefore prominent factors in this sentencing exercise. That said, I am satisfied that this behaviour is out of character for you. You have no relevant prior convictions. There are matters of dishonesty, matters under the *Misuse of Drugs Act* and some driving offences on your recorded criminal history. In my view, these are consistent with your longstanding drug addiction issues, but there is nothing, however, to suggest a history of violent behaviour.

I am satisfied the objective seriousness of your crime requires the imposition of a sentence of imprisonment. I accept, however, that there are several factors which weigh against making you serve that period of imprisonment immediately. In particular, I note the basis of your criminal liability, your physical impairments which would make a period of imprisonment particularly onerous, and your lack of relevant prior convictions. I intend to wholly suspend the period of imprisonment I impose.

You are convicted of the crime of assault. You are sentenced to a term of imprisonment of four months. The whole of that sentence will be suspended for a period of two years on condition that you are not to commit another offence punishable by imprisonment during that time.

Mr Glover, I warn you that if you do commit another offence punishable by imprisonment during that period, you can be brought back to this Court and an application made that you serve the period of imprisonment just imposed. The law is that a judge must activate it unless it is unjust to do so.