

STATE OF TASMANIA v MARCO JOHN SALIHOVIC
COMMENTS ON PASSING SENTENCE

1 AUGUST 2024
JAGO J

Mr Salihovic, you have pleaded guilty to one count of being unlawfully armed in public contrary to s 78 of the *Criminal Code*. I am also dealing with related summary matters, being five counts of common assault and one count of injure property.

On 26 August 2023, at approximately 3.30 in the afternoon you drove to a street in Smithton and stopped your vehicle near a group of youths. You retrieved a chainsaw from the passenger seat of your vehicle, started that chainsaw and then approached the group of youths, revving the chainsaw and telling them that you were going to kill them. When two of them ran to a nearby residence you followed them, and then used your chainsaw to cut into the front door.

The background to all of this is that one your children, your 16 year old son whom I shall refer to as J, had been the victim of some bad bullying at the hands of two of these youths. J had been dating a 14 year old girl, whom I shall refer to as "SH". She is one of the youths involved in this incident. That relationship ended in early 2023. Shortly after that, SH started dating "IM", who was another of the youths involved in this incident. After they began dating, they became nasty towards J. They sent him abusive messages and made abusive phone calls. He was subject to a number of threats and was physically assaulted on occasion. This bullying was, from your perspective, quite constant and at times extreme. It affected his schooling and his mental health. At one point he was admitted to hospital for suicidal ideation because of the bullying he was experiencing. On the day this incident occurred, you received a phone call from your partner advising that J and your partner had been followed into a supermarket and threatened by IM, SH and other youths, and that a knife had been used during this threat. Police were called. Your partner and J were escorted from the supermarket and taken to the police station. A restraint order was taken out for the protection of your partner, J and some of your other children.

When you received this phone call you were driving home from woodcutting. You had the chainsaw with you. I accept you were frustrated and angry and felt that little was being done to protect J and your family from this ongoing behaviour. In those circumstances, you made a spontaneous decision to go via their residence. On route, you saw them standing on the side of the street. You exited your vehicle, grabbed your chainsaw and started it. You approached the group of youths with the chainsaw, revved it and said you were going to kill them. You came within a few metres of IM and SH. This behaviour encompasses two of the counts of common assault. IM and SH ran. You approached the remaining youths with the chainsaw still running. They also ran in multiple directions. You saw two of the youths, whom I shall refer to as "SM" and "AH", running towards a house. You followed them with the chainsaw still running and again approached them with the chainsaw revving. This behaviour amounts to the third and fourth count of common assault. SM and AH ran inside the house. You yelled at the occupants of the house, in an abusive manner, for IM to come out. You were told to leave. The occupants of the property went inside and closed and locked the door. You then used the chainsaw to cut into the front door of the property. SM, AH and the adult occupant were all inside the property. This behaviour amounts to the charge of injure property.

You then left and returned to your vehicle. As you departed there were some other youths, not associated with the matter, on the street. You told one of them to tell IM and SH that you were going to kill them. As you drove away, you saw IM and SH. You yelled at them that you were going to "put them in a box". This behaviour speaks to the level of agitation you were obviously

displaying on this afternoon. None of the victims were physically harmed as a result of your behaviour, but I have no doubt it would have been a very unpleasant and upsetting experience for all of them.

I have received victim impact statements from SH, IM, SM and AH. They all describe feeling scared, anxious and frightened by your behaviour. They have experienced nightmares, and ongoing panic attacks and feelings of despair. In my view, the statements provided are reflective of the type of impact behaviour of this nature might be expected to have upon young people, although I bear in mind a degree of circumspection is warranted, particularly in respect to the statements of IM and SH.

You returned home after this incident, and later the same evening you contacted police yourself. You were arrested and the chainsaw in your possession was seized. You were taken to the Smithton Police Station. You participated in a record of interview. You told police about the difficulties your son had been having with IM and SH. You admitted that you had a "momentary lapse of judgment" as you were coming back from woodcutting because of the stress of what had been occurring with your son. In essence, you admitted to your behaviour, although my assessment of your comments in the record of interview is that you did not have a full appreciation of just how serious your behaviour was. You nevertheless told police that you would not have hurt the youths, but that it was a "scare tactic".

The day after this incident people associated with the youths attended at your home armed with a chainsaw and machete and caused significant damage. Four people have been charged as a result of that behaviour.

You are 52 years of age. You are in a long term relationship with your partner and together you are raising seven children. By way of prior convictions, there is a matter of common assault from 1993 which was dealt with by way of the imposition of a probation order. That is obviously a matter of some age now. Beyond that, your record of prior convictions consists predominately of driving offences. You are employed as a fork lift driver. At the time of this incident, you were also working as a taxi driver but resigned from that employment following this occurrence. I am told you now recognise the foolishness of your behaviour, and recognise that you allowed the emotions you were experiencing to get the better of you. I am also told that you were exceptionally frustrated by what your son had been experiencing in the lead up to this incident. Several incidents involving IM and SH had been reported to police but, from your perspective, insufficient had been done about it. You had watched your son struggle for several months and when you were told about what had happened on this day, you foolishly decided to try and sort the situation out once and for all. Whilst one can accept you were concerned about what had been happening to your son, vigilante justice can never be accepted by the courts or the community. Courts need to adopt a stern approach in response to such unlawful behaviour, because as is evidenced by the very facts of this case, if such an approach is not adopted, acts of retribution can soon escalate out of control.

What you did, in approaching young people with a running chainsaw, was inherently dangerous. You had no way of knowing, particularly given their youth, how they would respond. Had someone been struck by the running chainsaw, the consequential injury was likely to be severe if not fatal. Using violence to settle grievances is a matter of significant community concern. General deterrence and denunciation are prominent factors in the sentencing exercise.

I take into account your early pleas of guilty. They count in your favour and I accept they are reflective of your now held remorse. I accept that these assaults were not premeditated but nor did you immediately desist when the young persons fled. You followed two of them and approached them at the front of their home. Upon being told to depart by the occupant, you responded by using your chainsaw to cut into the front door. It cannot be overlooked that you were the adult in all of this and you should have exercised some maturity and self-restraint. Your conduct was completely unjustifiable, no matter how unsavoury the treatment of your son had been. In my view, a term of imprisonment is necessary to mark the seriousness of the matter, but I take the view that the execution of the term can be suspended given your lack of any recent relevant prior convictions, and my satisfaction that this is an aberration arising from stressful circumstances, and not reflective of a propensity towards violence generally.

Mr Salihovic, you are convicted of all matters to which you have pleaded guilty. I impose one sentence. You are sentenced to ten months' imprisonment. 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.

I make a compensation order in favour of Housing Choices Tasmania in an amount to be assessed.

I make an order that the chainsaw seized by Tasmania police be forfeited to the State of Tasmania.

I warn you Mr Salihovic that the law is that upon breach of a condition of a suspended sentence being proved, a Judge must activate it and make you serve it, unless it is unjust to do so. Therefore, if you wish to avoid serving the prison sentence I have just imposed, you must strictly comply with the terms of its suspension.