

Mr Randall, you have pleaded guilty to one count of Criminal Code assault. I am also dealing with related summary matters, being one count of destroy property and one count of injure property. The charges arise out of an incident which occurred on 21 November 2021.

That afternoon, you were visiting your father who lived in Gray Street, Burnie. The complainant lived nearby. For a number of reasons, there had been a strong animosity develop between the complainant and you and your family. That afternoon, for reasons which are largely unexplained, but which I suspect had something to do with the fact you had been consuming a considerable quantity of alcohol, you went to the complainant's home. You knocked the complainant's letterbox off its post, destroying it. This constitutes the count of destroy property.

The complainant was alerted to your behaviour by his partner. He went outside. You and he exchanged some words. You began to walk towards the complainant's front door. You approached it and kicked it, splintering the door frame and damaging the architrave. This constitutes the offence of injure property.

You then stepped inside the house. The complainant told you to leave. You picked up a broken chair leg which was next to the front door. The complainant took hold of it and wrestled it from you. The complainant then left his house, intending to go to a neighbour's house and call the police. You followed the complainant. On the way, you called out to your father for assistance. You and the complainant ended up in the neighbour's backyard and exchanged further abuse. You called the complainant a dog and said that you were going to smash his head in.

At this stage your father entered the backyard. The complainant swung the chair leg he still had with him, towards your father, but did not connect with him. You then moved in between your father and the complainant. You and the complainant wrestled and both of you ended up on the ground. Whilst you were on the ground, the complainant hit you with the chair leg two or three times. You managed to remove the chair leg from the complainant. The complainant stood up before falling back to the ground. Once he was on the ground, you hit him with the chair leg two to three times to the forehead. This constitutes the crime of assault.

The complainant began to bleed. Your father pulled you from the complainant and removed the chair leg from you. Police arrived. The complainant was taken to hospital. He had a two centimetre wound to his eyebrow, which was glued together, and a four centimetre wound to the back of his head that was repaired with five sutures. It is not alleged by the State that you are criminally responsible for causing the wound to the back of the complainant's head. This most likely occurred during the wrestle on the ground.

You were subsequently arrested and participated in a record of interview. You told police that the incident in the neighbour's backyard happened quickly, that the complainant had swung the chair leg at your father, and that you had stepped in between them. You said the complainant had hit you with the chair leg on two to three occasions. You then took the chair leg from him and hit him with it two to three times. You told police that after the complainant had struck you with the chair leg, "something snapped" and you proceeded to hit the complainant. You

agreed with police that once you had removed the chair leg from the complainant, you should have walked away.

The State accept your plea of guilty on the basis that you held a belief that there was a need to defend yourself, but that in using the chair leg in the manner that you did by striking the complainant to the head once he was on the ground, the amount of force you used was excessive. Whilst I accept you are to be sentenced on this basis, in terms of your moral culpability, it is noteworthy that you started this entire incident when you attended at the complainant's home, destroyed his letterbox, and then forced entry into his home by breaking the front door. The complainant was at home, minding his own business when you violently entered and created this situation of angst.

It is also noteworthy that when the complainant left his residence intending to go to the neighbour's home to call the police, rather than allow the situation to dissipate, you pursued him. I am satisfied this whole incident developed because you were angry and unable to control your temper given the animosity you obviously felt towards the complainant. It is aggravating, in my view, that you pursued the complainant and created the situation whereby the confrontation occurred.

You are 23 years of age. You were 20 when this incident occurred. You have relevant prior convictions. In May 2021 you were convicted of common assault. This incident occurred in a supermarket. You punched a supermarket worker to the face. In May 2021 you were also convicted of two counts of injuring property and a further offence of common assault. This involved you striking your father to the back with a chair. Additionally, you have prior convictions for breaching restraint orders, matters of dishonesty, driving offences and offences under the *Misuse of Drugs Act*.

The main of your past offending occurred between 2020 and 2022 when, I am told, you were using alcohol and methyl amphetamine heavily. I am also told that you have now addressed your excessive use of those substances. You have not offended in any way since April 2022. You have formed a new relationship, which appears to be stable, and you have obtained employment. Since March 2023, you have been employed with a tree services company based in Latrobe. I have received and considered a reference from your employer. You are obviously well regarded in your employment and your employer provides you with considerable support. It is to your credit, and reflective of your desire to maintain your employment, that you catch the bus from Burnie to Devonport on a daily basis to enable you to engage in your employment.

It goes without saying that striking another person to the head area with a weapon is an inherently dangerous act. You were obviously in a high state of agitation. The complainant was vulnerable and laying on the ground. You struck him several times to the forehead area and your violence only came to an end when your father intervened. People endeavouring to settle grievances through the use of violence is a matter of significant community concern. General deterrence and denunciation are prominent factors in the sentencing exercise. Because of that, the harm you caused to the complainant and the objective seriousness of your offending, I am of the view that a period of imprisonment is warranted. There are, however, a number of factors in your favour, including your still relatively young age, your employment and the positive changes you have made in recent times, which weigh in favour of the period of imprisonment being suspended to allow you the opportunity to demonstrate that the changes you have made are here to stay.

You are convicted of all matters to which you have pleaded guilty. In respect to the summary offences of destroy and injure property, I make no further order. In respect to 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 18 months on condition that you are not to commit another offence punishable by imprisonment during that time.

I warn you Mr Randall 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 make every endeavour to strictly comply with the terms of its suspension.

I make a compensation order in favour of Housing Tasmania, the terms of which will be adjourned for assessment.