

Amba Burgess-Banks, you plead guilty to wounding. I also agreed to deal with your plea of guilty to one count of breaching a police family violence order. In the very early hours of the morning of 15 May 2023 you and your then partner Bradley Irwin were together at your home in Gagebrook. At about 1.20 am, following an argument between you, he turned to walk out of the room. You produced a knife you had concealed in your jumper and stabbed him once to the upper left side of his chest just behind his arm. He stumbled outside and collapsed in the street. You followed him. Although you told him his injury was not that bad you called an ambulance. Medical investigations undertaken at the hospital disclosed that he had a three centimetre wound of uncertain depth, a large left pneumothorax, that is a collection of air outside the lung but within the pleural cavity, and some accumulation of air under the skin. The wound was cleaned and sutured and a chest drain was inserted. He was monitored in hospital for two days. He will be left with scars at the site of the wound and the drain but was otherwise expected to make a full recovery.

When you were interviewed by the police you admitted that you had stabbed Mr Irwin after an argument. You said that you were not thinking straight at the time, and that you had used methylamphetamine that day.

You are now aged 31. Your plea of guilty is in your favour. Those who plead guilty are ordinarily entitled to a reduction in sentence. You gave a relatively early indication of the plea and it indicates that you accept responsibility for what you did and are sorry for it. Your record of offending is a poor one and extends back to 2008 when you were 15. It includes offences in Victoria and New South Wales as well as in this State. There are some early convictions for assault as a youth. As an adult, your record is predominantly for dishonesty, not violence, although you have been to prison on a number of occasions. Between 2012 and 2023 you were subject to a number of community based orders: parole orders, suspended sentences, drug treatment orders and supervision. The last supervision order from 2023 was cancelled in 2024 for non-compliance.

The details of your personal circumstances were given to me by your counsel and in a pre-sentence report prepared by Community Corrections. From an early age you have been subjected to profound deprivation and disadvantage. As a very young child you were exposed to drug use and violence. You were placed into State care as a result of which you were separated from your siblings. Regrettably, the foster care was unstable and you disengaged from education around grade 7. You briefly returned to the care of your mother when you were 13 but it did not last long and since then your life has been characterised by instability and homelessness. You began using alcohol and drugs and associating with others committing crime as a young teenager. Throughout your adult life your offending is linked to the use of drugs, first cannabis and progressing to the heavy intravenous use of amphetamines. You have poor mental health. You reported to the author of the pre-sentence report that you were diagnosed with schizophrenia a few years ago. Your condition is managed by medication including monthly depo injections. You claim to be serious about addressing your drug problem. In 2023 you spent some time at Missiondale. You are supported by the Aboriginal community and you are actively seeking other supports.

Although you are not to be punished twice for the same conduct, it makes it more serious that you were, at the time, subject to a police family violence order which had been served on you

on 9 January 2023 aimed at protecting Mr Irwin. It is fortunate for both you and him that the effect on him of the wound you inflicted was not much more serious. The prosecution accepts that you did not intend to wound Mr Irwin but that you were reckless, that is you realised the likelihood that you may do so and acted regardless of the risk. Although I am told it took some time to resolve the accepted basis of criminal liability it makes not a lot of difference. Almost everyone would appreciate that to strike someone with a knife would inevitably cause a wound. Moreover, the risk that very serious injury or death could result from stabbing with a knife in that part of his body would be obvious to any reasonable and rational person. You claimed that when this crime was committed you had not taken your medication and had used three to four points of Ice as well as alcohol. The fact that your actions were affected by use of alcohol or drugs may explain what you did but does not excuse it or lessen the seriousness of it. Up to the sentencing hearing on 6 September 2024 you had spent 128 days in custody which are attributable to this charge. You have been in custody since then so the sentence I impose will commence on 1 May 2024.

You are not suitable for community service because of your mental health condition but you require a high level of supervision. As a result, I will, instead of ordering parole, suspend part of the sentence conditional on an extended period of supervision aimed at providing you with support in the community to manage your mental health and drug related issues.

You are convicted on the indictment and on count 2 on complaint 4698/23. In accordance with the *Family Violence Act*, s 13A, I direct that both offences be recorded on your criminal record as a family violence offence. I impose one sentence. You are sentenced to imprisonment for 15 months from 1 May 2024. I order that you not be eligible for parole. However I suspend seven months of that term for 18 months from your release on the following conditions:

- (a) You are not to commit another offence punishable by imprisonment during that period. If you breach that condition you will be required to serve the suspended part of the term unless that is unjust.
- (b) During the 18 month operational period of the order, commencing on your release, you will subject to the supervision of a probation officer. The conditions referred to in s 24(5B) of the *Sentencing Act* apply to this condition and will be set out in the order you will be given. These include that you must report to a probation officer at the office of Community Corrections in Hobart within three clear working days of your release, you must submit to supervision and comply with the directions given by your probation officer, you must not leave Tasmania without permission and you must notify of any change of address.
- (c) In addition to the core conditions, the order will also include the following special conditions that you must, during the operational period of the order:
 - i. submit to the supervision of a probation officer as required by that officer;
 - ii. attend educational and other programs, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.