

STATE OF TASMANIA v DANIEL JOHN HURSEY
COMMENTS ON PASSING SENTENCE

22 OCTOBER 2024
ESTCOURT J

The defendant, Daniel John Hursey, aged 38, has been found by a jury guilty of one count of strangulation. On 9 October 2022, while in bed together, the complainant began to punch the defendant as a result of him ignoring her after an argument. The defendant responded by rolling over and placing his left hand across her throat area, and his right hand to her neck area, and applying pressure for four or five seconds causing, I find, the complainant to lose consciousness.

The defendant is a large man with fighting experience and the complainant is a very small woman. I rule out self-defence but excessive force as a finding. The defendant could not, in my view, have believed that he needed to defend himself. He retaliated, in my judgment, after considerable annoyance from the complainant.

The complainant sustained no lasting injuries. She had some difficulty swallowing water the next day and had a headache. The defendant has no prior convictions for violence or related offending, and this offence may be regarded as wholly out of character. The relationship between the two has now ended.

I have had a victim impact statement read to me and I take it into account, but regard it with some caution having observed the complainant as a witness in Court over a period of time.

Strangulation is a serious crime to be distinguished from other forms of assault comprising family violence because of its terrible potential consequences, including death. Something that the defendant appeared to me, in the body worn camera footage taken of him on the night of the offence, to be quite indifferent about. Parliament has seen fit to set strangulation above other forms of assault as warranting weighty punishment. General deterrence and denunciation are to the fore as sentencing considerations. Violence against women is a matter of grave concern to the Australian community. I cannot be tolerated.

The defendant is convicted and sentenced to 12 months' imprisonment, which sentence I wholly suspend on condition that he commit no offence punishable by imprisonment for a period of 12 months. I record the crime as a family violence offence.