

STATE OF TASMANIA v TYLER JOHN MAYNE
COMMENTS ON PASSING SENTENCE

5 NOVEMBER 2024
ESTCOURT J

The defendant, Tyler John Mayne, now aged 31, has pleaded guilty to three counts of assault. Pursuant to s 385A of the Code I have also agreed to deal with charges 14 and 15 on complaint number 33213/2022 and I have accepted pleas of guilty through counsel in respect of those summary offences.

The complainant is now aged 32. As of July 2022, she and the defendant had been in a relationship for approximately eighteen months. She lived in New Norfolk with her children, aged 13 and 9, and the defendant had been living with her for approximately twelve months.

At about 2.00pm on 15 July 2022, the complainant left her address to collect a vehicle from Risdon Vale. On the way back from Risdon Vale, her phone rang with a call from her son. She answered the call and heard the defendant on the end of the line. The complainant realised the defendant was at her house with her children and became hysterical. The complainant yelled at the defendant. The defendant told the complainant to stop yelling and to listen to what he had to say. The call lasted approximately twenty minutes.

At approximately 2.25pm, police were on mobile patrol when they observed a Commodore sedan parked outside the complainant's house. They saw the defendant, who they knew, sitting in the driver's seat of the vehicle. They executed a U-turn and approached his car. As they approached, it pulled out in front of the police vehicle and accelerated at speed along Benjamin Terrace. Police activated emergency lights and sirens, attempting to intercept the vehicle. The vehicle continued to drive away at speed, and showed no sign of stopping, so Police disengaged. The defendant was disqualified from driving at the time.

At approximately 4.00am, on 16 July 2022, the complainant woke up to the defendant banging on her bedroom window. He had parked on the front lawn outside her window and told her to *"Get out here, get out here."* The complainant walked to the front door and saw that it had been forcibly opened and the defendant was standing directly outside. The defendant told the complainant to get in his car and he began to drive. He kept telling the complainant he was going to kill her if she did not listen to him. He told the complainant she was crazy and she was trying to make him insane. The defendant was becoming more agitated and said *"You made me go and steal a car."*

He drove the vehicle to Pulpit Lookout in New Norfolk and told the complainant he would drive the car off the cliff and kill both of them. He punched the complainant to the right side of her head. He punched the complainant and said *"Look what you have done you psychopath."*

The defendant then drove to a vacant house at Pulpit Rock Road, approximately one hundred metres from the lookout and they both got out of the vehicle. The defendant told the complainant he had kidnapped one of her cousins, and that they were inside the house. The defendant approached the complainant and the complainant and the defendant ended up on the ground. The defendant placed his hands on the complainant's neck and strangled her. The complainant lost consciousness.

The complainant regained consciousness and the defendant accompanied her into another vehicle which was parked at the address. He said to the complainant *"Why did you make me do this."* The defendant began to drive and said *"This wasn't the plan."* While he was driving,

the defendant began hitting the complainant and pulling her hair . The complainant started screaming. The defendant stopped the vehicle and pulled the handbrake lever. The complainant leaned across and pressed the horn of the vehicle. She tried to get out of the vehicle but was unable to do so.

The defendant drove to the bottom of the road and turned right. The complainant grabbed the steering wheel in an attempt to intercept an oncoming vehicle for assistance. The defendant pushed the complainant's head into his lap and put his elbow on her throat. The complainant believed she was going to lose consciousness. The defendant released her.

The defendant continued driving to the complainant's address. When they arrived, he stopped the car outside the house. The complainant got out of the car and went inside, where she called police. The defendant left. He was located by police on 19 July 2022 and was arrested. On 20 July 2022 he was remanded in custody, where he has since remained. He has been in custody on this matter alone for 1 year, 9 months and 14 days.

The defendant has 111 pages of convictions both pre-dating and post-dating the offending before me. His record has been described as appalling. By telephone, he serially breached the Family Violence Order in place to protect the complainant until the end of September 2022. He has convictions for aggravated armed robbery, burglary, wounding, grievous bodily harm, assault, emotional abuse and breaching a family violence order.

The defendant is a 31 year old Aboriginal man. He had an appalling childhood, where his family home was marked by significant neglect, abuse, family violence and exposure to drug and alcohol abuse. He was diagnosed with Complex Post Traumatic Stress Disorder and exhibits symptoms associated with Anti-Social Personality Disorder and Borderline Personality Disorder.

He was placed into the care of the State of Tasmania in 2003, and was failed by the system. On 9 December 2003, he was placed in to State care, and in November 2004 he was placed in a family group home, where he suffered appalling physical and sexual abuse at the hands of his foster father. The defendant first went to Ashley Youth Detention Centre when aged 10 and his childhood was spent in and out of that detention centre, where he again suffered severe sexual abuse as well as physical abuse at the hands of staff and other detainees.

Both the defendant and the complainant were using methylamphetamine towards the end of their relationship which further contributed to its breakdown. The complainant confronted the defendant about a suspicion she had that he was being unfaithful to her, in circumstances where he had not been, and this upset him. He could see his first stable and supportive relationship falling away and he lost control.

I am told that the defendant is motivated to change. That motivation has been ongoing and commenced prior to the commission of these offences and has continued throughout his period on remand.

As a remandee he has not been able to participate in programs that are otherwise available to prisoners if serving a sentence. This could affect any early release on parole after sentencing today, however I am informed that the defendant has been able to demonstrate an ongoing commitment to change and has built a positive relationship with Mr Ivan Cunningham from Phoenix Counselling Services, who has been working with the defendant in custody regularly.

He has attended 37 sessions with Mr Cunningham and the two have developed an excellent working relationship.

I am also informed that the defendant has disengaged from any "prison politics", noting that a previous Parole Board decision in 2020 stated:

"The Applicant was classified as requiring, until recently, maximum security and had engaged in a significant number of internal offences, many of which displayed an attitude of resistance and contempt for the efforts of custodial officers and prison regulations."

The defendant has not, however, had an internal prison offence since 2020, and he worked his way down to being classified as minimum security and he is working in the prison kitchen. He has obviously had a genuine attitude shift.

He has received a settlement from the State of Tasmania in relation to his abuse in State Care, and he has purchased a bush block in the North of the State. He intends to build a home on that block. He has reconnected with his father after many years of no relationship with him, and his father has assisted him with the purchase of the block of land and will continue to support him upon his release.

I accept the submission made on behalf of the State that specific deterrence is a prominent factor in sentencing in this case, given the defendant's record.

The three assaults and the circumstances in which they occurred are extremely serious in my view, notwithstanding the absence of any lasting physical injury to the complainant. I have read a Victim Impact Statement which makes it clear that nonetheless the complainant has suffered and continues to suffer significant emotional impact – she thought that she was going to die on that day.

In particular, assault in the form of strangulation is a serious crime to be distinguished from other forms of assault comprising family violence because of its terrible potential consequences, including death. Such an assault warrants weighty punishment. General deterrence and denunciation are also to the fore as sentencing considerations. Violence against women is a matter of grave concern to the Australian community and it cannot be tolerated.

I take into account the defendant's pleas of guilty. I note that consultant psychologist, Dr Jennifer Wright has opined as to the enlivenment of the *Verdins* principles in this case. I do not read her report as offering any basis for the moderation of an otherwise appropriate sentence based on *Verdins*, however even if I were wrong about that, the defendant has already served longer in prison than a moderated sentence would call for as a head sentence.

I accept the submission made on the defendant's behalf that the *Bugmy* principle is applicable, as the defendant's background of disadvantage and deprivation have undoubtedly left their mark on him and are relevant to an assessment of moral culpability as submitted by his counsel.

In all of the circumstances the defendant is convicted of three counts of assault and of driving while disqualified and is sentenced to three years' imprisonment, backdated to 21 January 2023 with the balance from today suspended on condition that he commit no offence punishable by imprisonment for a period of two years.

I record the assaults as family violence offences and I note that a Family Violence Order made on complaint 70374/22 on 26 September 2024 is to remain in force for 12 months from that date.

I am required to sentence the defendant separately on the charge of evading police and I convict him of that offence and sentence him to 1 months' imprisonment, which is to be served concurrently with the backdated sentence I have just imposed. The defendant is disqualified from holding or obtaining a driver's licence for a period of three months from his release from prison.