

Mr Tapp has pleaded guilty to one count of assault contrary to s 184 of the *Criminal Code*. The particulars of the offence are that on or about 4 December 2022 he unlawfully assaulted the complainant by punching him to the head multiple times. The background to the offending is that Mr Tapp was a patron at the Observatory Bar in Hobart in the early hours of Sunday, 4 December 2022, the same time the complainant was present. Neither man was known to each other. The complainant left the premises at about 4.30am when the venue closed. He walked a short distance from the venue and commenced to talk to a female friend. Shortly thereafter Mr Tapp who had just also left the venue approached the complainant and accused him of taking advantage of the female. The complainant told Mr Tapp the female was a friend of his. Mr Tapp continued his verbal abuse. As the complainant went to walk away Mr Tapp punched him to the head with closed fist, a total of 16 times. A vision of the incident shows a series of rapid fire punches which caught the complainant totally unaware. The assault occurred over a mere eight second period. It was cowardly in the extreme, especially given that after the third punch the complainant had fallen to the ground. Before fleeing, Mr Tapp told the complainant that "that's what you get for taking advantage of a female".

The complainant was taken by ambulance to Royal Hobart Hospital. He sustained a fractured cheek bone, laceration to his right lower eye lid and damage up the drainage system in a corner of his right eye. The complainant underwent surgery on 5 December 2022 in relation to his injuries. He was advised that he may have long standing numbness and visual problems as a result of the assault. The complainant made a victim impact statement on 9 August 2024. He referred to continued numbness of the right side of his face. He also suffers from anxiety when out in public places. He was unable to work for two months after the assault and lost the ability to earn substantial income. In addition he spent a deal of money on therapy to overcome his anxiety without success.

When interviewed by the police, Mr Tapp said he was drunk at the time of the assault and he thought the complainant was trying to take advantage of the female. He said that the complainant made a smart remark before he hit him reasonably hard. He said he was angry and lost control but felt bad about the injuries that he had caused. Mr Tapp has no relevant prior convictions, however the offending on this occasion was serious and has had long term consequences for the complainant.

When the matter was first before me for sentencing, I considered that a custodial sentence was a live sentencing option, and in the circumstances I required a report from Community Corrections concerning the suitability of Mr Tapp for a home detention order. Mr Tapp has been assessed by Community Corrections as suitable. Given that Mr Tapp has not been sentenced to a term of imprisonment before, it is appropriate to sentence him to home detention in lieu of incarceration.

In failing to order an actual term of imprisonment, I have regard to Mr Tapp's remorse expressed to the police and his concern for the injuries caused to the complainant. If I did not make a home detention order in respect of Mr Tapp's offending in the matter, I would have sentenced him to a term of imprisonment in relation to the offence, notwithstanding that I may have suspended part of that sentence. My opinion is that it is appropriate in all of the circumstances to make a home detention order having considered the pre-sentence report as to

whether Mr Tapp is suitable for a home detention order. Mr Tapp consents to the order being made. I am satisfied that the premises of which Mr Tapp will reside for the duration of the home detention order are suitable for a home detention order to be made. Each person who resides at those premises consents to Mr Tapp being detained at the property. There is no significant risk that Mr Tapp will commit a violent offence at the premises.

I sentence you Mr Tapp to a home detention order for an operational period of 18 months commencing today.

During the operational period of the order:

- (a) You must not commit an offence punishable by imprisonment.
- (b) You must during the operational period of the order remain at ****address**** during the times of 6pm to 6am on week days and 4pm to 12pm on weekends unless approved by a probation officer.
- (c) You must during the operational period of the order permit a police officer, probation officer or prescribed officer to enter the home detention premises.
- (d) You must during the operational period of the order permit a police officer to conduct a search of the home detention premises and also a search within the meaning of the *Search Warrants Act* of you at the premises and take a sample of any substance found on the premises or on you.
- (e) You must comply with all reasonable and lawful directions of a probation officer or prescribed officer.
- (f) You must during the period of the operation of the order submit to electronic monitoring including by wearing or carrying an electronic device. During the period that you are required to submit to electronic monitoring
 - (a) you must not remove, tamper with, damage disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring
 - (b) you must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring
 - (c) you must comply with all reasonable lawful directions given to you in relation to electronic monitoring, including in relation to the installation attachment or operation of device or a system used for the purposes of electronic monitoring by
 - (1) a police officer
 - (2) a probation officer or a prescribed officer
 - (3) another person whose function involve installation or operation of device or a system used for the purposes of electronic monitoring.
- (g) You must attend the Community Correction office at 75 Liverpool Street, Hobart for an induction in to this order. You must attend your induction at 10am precisely on Tuesday, 12 November 2024.
- (h) You must during the operational period of the order maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times.
- (i) You must submit to the supervision of a Community Corrections officer as required by that officer.
- (j) You must not during the operational period take an illicit or prohibited substances including (a) any controlled drug as defined by the *Misuse of Drugs Act* (2001) (b) any medication containing opioid, benzodiazepine, bupropion hydrochloride or

pseudoephedrine unless you provide written evidence from your medical professional that you have been prescribed the relevant medication.

- (k) You must not during the operational period of the order consume alcohol and you must if so directed by a police officer or Community Corrections officer submit to a breath test, urine test or other test for the presence of alcohol. In addition you are sentenced to a community based supervision order.

I also impose a Community Corrections Order. You will be subject to that order for a period of 24 months from today.

In addition to the core conditions, you are subject to the following conditions:

- (a) You must complete 75 hours of community service within the next 24 months. During the operational period of the order you must submit to the supervision of a probation officer as required by the probation officer.
- (b) You must during the operational period of the order undergo assessment and treatment for drug dependency as directed by a probation officer.
- (c) You must during the operational period of the order submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer.