

STATE OF TASMANIA v GAETAN JEAN FERRARA
COMMENTS ON PASSING SENTENCE

27 NOVEMBER 2024
MARTIN AJ

Mr Ferrara, you have pleaded guilty to an offence of unlawful wounding which you committed on 14 January 2024 when you struck the victim to the face with a glass.

In the Crown facts presented to me, the prosecution have accepted that you did not intend to wound the victim, but you foresaw the risk that you would cause a wound and proceeded regardless.

You come from France, and you have been in Australia on a working visa since December 2023. You were staying at the Cygnet Caravan Park and, on 14 January 2024, you and a number of your French associates went to the Cygnet Hotel for a social outing. The victim was also at the hotel with a group and during the course of the evening a fight began between the groups. I have seen footage taken on a mobile telephone which demonstrates quite clearly how pointless and dangerous these types of altercations are.

During the fight the victim hit one of your associates and stepped away from the immediate altercations, but he was still in proximity to the active fight. You can be seen on the video moving in the direction of the victim and the Crown facts state that you placed your hand on the victim's shoulder, simultaneously raising your other hand in which you were holding a glass. You then struck the complainant to the face and the head with the glass causing complex and deep facial lacerations to the left cheek area, with multiple smaller lacerations to the left side of the face. By pure luck the lacerations did not physically affect or cause injury to the eye. But the lacerations to the facial area were quite severe and they have had a long standing effect on the victim.

In his victim impact statement, the victim has told me that he had approximately 47 stitches to the left side of his face, neck and ear and the big scars are still very noticeable on his forehead and next to his eye, and are likely to be with him for life. He finds it hard to look in the mirror and the big cut to the left of his eye has left him with a twitch in that eye. Every time someone looks at him he wonders if they are looking at the scars. The victim has nightmares and for a time was scared to go out in public. He was unable to work. He felt incredibly stressed and unable to cope with his emotions. He describes in his statement the psychological effects that your crime has had upon him.

So Mr Ferrara, while the physical damage did not directly damage the eye, it caused significant scarring and long standing psychological effects.

You are now 28 and you come from Montpellier in France. Your parents have travelled here to support you. Counsel has told me that you are a qualified plumber, but you have also worked over time as a truck driver, a security officer and in the agricultural sector. You were a farm hand when you previously visited Australia between 2019 and 2021. At the time of this offence, you were working in the Huon Valley, also in the agricultural sector. You have never been in trouble with the law before and I accept that you were previously a person of good character.

A few days after you committed this crime, you left Tasmania and travelled to Melbourne with a friend. I accept that this was a planned departure and not one brought about by fear of repercussions from the night in question. You ended up in Queensland where you were located

and extradited. As a consequence you spent six days in custody which was a salutary lesson for you.

Mr Ferrara these types of crimes are far too common and they cause deep concern throughout our community. Even time somebody uses a glass to strike another person there is a risk of very serious injury and potentially death.

In arriving at an appropriate sentence I must bear in mind what is called in the law general deterrence. That is, imposing penalties that will hopefully deter others who are minded to behave in this criminal way. All crimes of this type are serious crimes, but as with every crime there is a scale of seriousness. In your case, you did not intend to wound the victim and you acted on the spur of the moment or impulsively in the course of a fight between the two groups. Fortunately you did not cause the extent of harm that is often seen in these types of cases. But the degree of harm should not be underestimated. You have no prior convictions and I accept that you are remorseful for your conduct. You told the police you were sorry for what had happened and you have written a letter which you seek to have conveyed to the victim. I do not know whether the victim wants to receive any communication from you or not, but that will be a matter for your lawyers to sort out, possibly with the assistance of the DPP. Because I do not know whether the victim will want to receive your letter, I do not intend to read your letter onto the transcript of these proceedings. I accept that your letter is a genuine response and a genuine expression of regret for what you did. I also accept that you have done a great deal of soul searching and that you have made a decision to give up alcohol entirely. From all the material before me, I am satisfied that there is a very low risk of you offending again.

There is an added factor and it concerns financial compensation for the victim. You have paid \$5,000 into your solicitor's trust account with irrevocable instruction to pay the amount to the victim as part compensation for his injuries and losses. I accept that this is also a reflection of your remorse and you wish to see the victim appropriately compensated. I will leave it to discussions between your solicitor and the DPP to work out how this is to be paid to the victim. I also have references which speak highly of you, although they are of limited weight.

I have already said that you are convicted. Had it not been for your plea of guilty which was, the Crown accepts, an early plea of guilty, I would have imposed a sentence of imprisonment for 12 months. After allowing for your plea, I impose a sentence of imprisonment for 10 months, but I have decided that because of the combination of circumstances which includes particularly the seriousness of the offending, your prior good character and other matters personal to you that I have discussed, it is appropriate to suspend that sentence immediately. You will be on a bond to be of good behaviour for a period of two years, during which time you must not commit any offence punishable by imprisonment. It is also a condition that you instruct your solicitors to pay the amount of \$5,000 in their trust account to the victim as soon as reasonably possible. I know you have signed a document that says your instructions are irrevocable, but it is now a condition of your suspended sentence that you instruct your solicitors to make the payment as soon as reasonably possible. You cannot change your mind. You will be in breach of your suspended sentence if you did.

If you are not of good behaviour in the next two years, or you commit an offence punishable by imprisonment in the next two years, you will be liable to be brought back here and to serve the 10 months, but I understand the practicalities are likely to be that you will go back to France because your visa is unlikely to be renewed and I suspect that it is unlikely to be renewed.

because I have recorded a conviction. But even though you are back in France, that two years still sits there.