

STATE OF TASMANIA v TERRY MAX WYNWOOD
COMMENTS ON PASSING SENTENCE

28 JANUARY 2025
JAGO J

Mr Wynwood, you have pleaded guilty to one count of wounding. Additionally, I am dealing with your pleas of guilty to two summary offences of unlawfully possess dangerous article in a public place.

On 22 April 2024, you and the complainant, Mr Ball, were at the Smithton Club in Smithton. You and Mr Ball left the club together and walked down towards the Duck River. You proceeded to walk along a nearby bike track. Whilst on the bike track, you lashed out at the complainant with a knife and cut him to the front of his neck. The wound was approximately two centimetres long and located towards the base of his neck, near the top of his sternum. The wound bled heavily. You ran away. The complainant returned home. Mr Ball has an intellectual disability and also suffers from schizophrenia. Initially, he did not tell anyone about his wound, but the following morning, he woke his mother and told her he needed to be taken to the hospital. At the hospital, the laceration was sutured and the matter was reported to police.

Mr Ball told police he had met you at the Smithton Club and that the two of you had walked down to the Duck River. Mr Ball said you attacked him with something sharp, although he did not see what it was before you ran away. Police reviewed CCTV footage from relevant areas. This led them to interview you. You told the police that whilst you and Mr Ball had walked off from the Smithton Club together, you denied assaulting him.

Further investigations ensued. CCTV footage from the Smithton Club was obtained. This showed you in possession of a dive knife, attached to your leg, on the relevant date. You were arrested on 24 April. At the time of your arrest, you were also in possession of a dive knife, hence the two counts of unlawfully possess dangerous article in a public place. During the second interview, you initially denied having a knife, despite the footage, although eventually you did admit to carrying a knife for protection. You still denied harming the complainant. You have been remanded in custody since the date of your arrest on 24 April 2024.

Striking someone with a knife to the neck area is an inherently dangerous thing to do. It is most fortunate Mr Ball did not suffer a more serious injury. I have not been provided with any medical report nor a victim impact statement. I infer Mr Ball's physical injury healed in time. The absence of a Victim Impact Statement does not, of course, mean that he has not been impacted by your crimes. I suspect, given his intellectual and mental health difficulties, he struggled to understand the seriousness of what had occurred. It must have been a confusing and frightening situation for him. I also note the impact of your crime extended to his mother, who had to deal with the consequences of your behaviour, the following morning. Undoubtedly, this, too, would have been a difficult situation for her.

You are 46 years of age. You have a long history of criminal conduct, beginning from when you were aged 11. You have committed many offences of dishonesty and violence in various States of Australia, including Tasmania, New South Wales, Queensland, Victoria and Western Australia. You have, over the years, been constantly in trouble for crimes of dishonesty and violence. Many of your offences have involved weapons. In 1998, you were convicted of the crime of wounding and sentenced to a three year, six month period of imprisonment. In 1999, you were sentenced for the crimes of aggravated assault, attempt to escape, escape, aggravated burglary and stealing and sentenced to imprisonment for two years and six months. I take into

account the time that has passed since the commission of these crimes but, unfortunately, it seems your criminal behaviour has, by and large, persisted during the time. More recently, in New South Wales, you have been convicted and sentenced for further crimes of violence, also involving the use of knives. In Queensland in 2019, you were convicted of the crime of assault occasioning bodily harm and sentenced to ten month's imprisonment.

I accept you have a long and complicated history of mental health difficulties. You have a genetic condition, known as XYY Jacobs Syndrome, which pre-disposes you to violent behaviour. I have received a forensic psychological assessment, authored by Dr Georgina O'Donnell. It outlines your complicated forensic mental health history. It notes that you have health alerts on your Tasmanian health file, which include the following:

- Major risk of violence;
- History of deliberate self-harm;
- Risk to self and others markedly elevate as a direct result of alcohol and stimulant use;
- Long term mental illness, including schizophrenia and learning and behavioural difficulties associated with an inherited genetic condition (XYY Jacobs Syndrome);
- Extensive forensic history across States of Australia;
- History of impulsive and dangerous behaviour to others when psychotic or drug induced;
- Morphine induced hallucinations.

Such a summary clearly outlines the difficulties associated with the management of your behaviour in the community on occasion.

Since your remand in custody in April 2024, you have engaged in various self-harm episodes. You are currently, within the prison system, placed on a suicide and self-harm watch.

It seems you have had difficulties with aggressive behaviour since you were a young child. During adolescence, you were diagnosed with conduct disorder, which has progressed to a diagnosis of anti-social personality disorder in adulthood. You also have a long-standing history of drug and alcohol abuse. Whilst in the community, you receive NDIS support. You have been a regular client of Adult Community Mental Health Services, but it seems you frequently disengage from assistance and supervision in respect to your mental health. You have also been most reluctant to effectively address your ongoing alcohol and substance misuse.

Managing your mental health, and in particular your tendencies towards aggressive and violent behaviour stemming from your genetic condition, have proved to be very problematic over a substantial period of time. Your genetic condition is described as chronic and it cannot be cured. It is exacerbated by your ongoing use of alcohol and drugs. Protection of the public, therefore, is a significant sentencing consideration.

I note Dr O'Donnell opines that you present with a severe personality disorder, which has its origins in the genetic condition I have referenced, but has been shaped by traumatic life experiences, including child sexual abuse in your formative years, followed by many years spent in detention and in prison. Dr O'Donnell opines that you present as at chronically high risk of harm to yourself and others, and that the risk increases with substance use, most particularly methyl amphetamine. As I have already noted, it seems you consistently use methyl amphetamine when in the community and there is nothing before me to suggest that you have, at any time, shown any real endeavour or desire to cease that substance abuse.

It, unfortunately, must be said that the prospects of successful rehabilitation in the foreseeable future are quite limited. Personal deterrence, that is endeavouring to deter you from offending again, is therefore a significant factor in sentencing. Moreover, protection of the public looms large as a sentencing consideration, together with denunciation of your conduct and general deterrence.

There is, in my assessment, little to mitigate your behaviour. I note Dr O'Donnell's opinion that your behaviour was reflective of impulsivity, which is a characteristic of your genetic condition and your personality structure. Whilst, of course, I take that into account, and I accept that there is a nexus between your mental health condition and the commission of this crime, I do not consider that to be a predominant sentencing consideration. It seems to me that you are a risk to the public and despite the best endeavours of mental health professionals and your NDIS providers, you have not engaged well with such services and you appear reticent to accept attempts to assist you.

In assessing the weight to be given to the *Verdins* considerations in this sentencing exercise, it must be borne in mind that in the past you have had the opportunity to address, to some extent at least, the difficulties that flow from your mental health conditions and you have been reluctant to engage and take on board the advice of mental health professionals. It can only be hoped that in due course you will come to recognise the benefits of being compliant with an appropriate mental health regime and, in particular, the need to abstain from drug and alcohol use, and you can learn to better manage your mental health conditions.

I had you assessed as to the appropriateness of a Community Correction Order. Whilst you have been assessed as eligible for a supervision order, there are some difficulties associated with the management of your individual characteristics on such an order. In my view, it is more appropriate that similar arrangements be made via conditions attaching to a parole order, in due course, which can hopefully incorporate assistance that may be available to you through an NDIS provider. I intend to make allowance for parole and it will then be a matter for the Parole Board to assess the likelihood of your compliance with orders that are designed to assist you when the time comes.

Mr Wynwood, in my view, the only appropriate sentencing outcome is a relatively substantial period of imprisonment. I convict you of the crime and the two offences. In respect to the two offences, I make no further order. In respect to the crime of wounding, you are sentenced to imprisonment for a period of two years, commencing 24 April 2024. I order that you are not eligible for parole until you have served 15 months of that sentence.