

Tina Knight, you were found guilty by a jury of wounding. The crime was committed in the early hours of the morning on Friday 17 June 2022 at your home in Newnham, when you stabbed your then partner Dwayne Triffett three times in his left arm. You admitted that you stabbed Mr Triffett. The only issue at trial was whether you acted in lawful self-defence. It follows from the verdict that a majority of the jury was satisfied beyond reasonable doubt that you did not. It is for me to find facts for sentence, but the facts must be consistent with the verdict. Facts adverse to you must be proved to my satisfaction beyond reasonable doubt.

You were then aged 44. You lived at Newnham with your daughter then aged 14. You had been in an on and off relationship with Mr Triffett for about two years. He came to your home late in the afternoon or early evening of Thursday 16 June. He should not have been there at all. There were reciprocal family violence orders in place to protect both you and him. Some of what happened during the evening was not in dispute. However, for reasons I will explain, there are good reasons to be cautious about the evidence of both you and Mr Triffett about the essential facts. The only direct evidence that you stabbed Mr Triffett in defence of yourself came from you.

During the evening Mr Triffett consumed a considerable amount of alcohol and became intoxicated. In his evidence he purported to have little memory of any of the relevant events. However the evidence establishes that, at some stage, you went to bed in your bedroom, having made up a bed for him on the couch in the lounge room. At his request, you then returned and in the early hours of the morning you and he were in the lounge room together. You both gave evidence that he began bouncing around using some sort of fighting moves including what was referred to as a fly kick, where he pivoted on one leg and swung the other leg around in a raised circular motion. At least one of these kicks struck you on the head. He was also punching the palms of your hands in mock sparring. Your evidence was that Mr Triffett was over excited and became progressively more agitated and aggressive. You said that you participated in the mock fighting only to placate him. He called you a bad mother. You claimed to have repeatedly asked him to leave but he did not do so. Then, on your evidence, he kicked you again, struck you in the back of the head, and pushed you over onto the stairs. My impression of Mr Triffett's evidence was that he was, in general, attempting to be favourable to you. Despite his claimed lack of memory, he accepted that he had kicked you once in the course of this mock fighting. He gave no coherent account of how he was stabbed or how you came to have a cut on your leg. For the same reason he was, on that night, less than forthcoming to the police, paramedics and medical staff at the hospital about what had happened. However his account was different in important ways. Despite this claimed lack of memory he expressly denied having struck you on any of the other instances you described, said that he loved you and had no reason to call you a bad mother.

Leaving aside the conflicting evidence for a moment, your account was that you left the lounge room, went to the bathroom and retrieved a small fold out knife. You exposed the blade, returned to the lounge and approached Mr Triffett with your hand raised and the blade of the knife pointed towards him as if to strike him with it. You said that he pushed your hand down so that the blade struck your upper leg and caused a cut. You then raised the knife again and stabbed his upper left arm three times. Three wounds were caused.

The verdict is consistent with two alternative scenarios. The first is that you did not act in self-defence at all. The second is that you genuinely believed some force was necessary to defend yourself but used more force than was reasonable. I find that you were considerably affected by alcohol at the time, and that the effects of alcohol influenced your behaviour. You gave evidence that you drank only one large glass of wine. I do not accept that evidence. It is inconsistent with the very high breath alcohol reading which was later recorded at the police station and also inconsistent with your appearance when the police arrived at the door after Mr Triffett had been stabbed. Even so, I am satisfied beyond reasonable doubt that, at the time you struck the blows with the knife, you did not have a genuine and honest belief that force was necessary to defend yourself. I reject your account, or at least the suggested implication from your account, that you needed to resort to a weapon to support your requests to remove him from the house. I do not believe your account that he kicked you again, struck you from behind or pushed you onto the stairs. I find that he presented no immediate threat from which you could not have withdrawn. You could have left the room. You could have called the police. I accept your evidence that when you returned with the knife Mr Triffett pushed the blade of the knife down towards your leg, but I find that action to be entirely consistent with him defending himself from your approach. When that occurred there is no evidence that he made any express or implied further threat of violence. You just stabbed him. Your motive for doing so is not entirely clear but I think it was most likely your feelings of exasperation or frustration with him, amplified by the alcohol. I accept that his behaviour played a part in the lead up but you must also be responsible for your own conduct. After Mr Triffett was stabbed there was no further physical interaction. He took himself to his mother's house a few doors along the road. He had wrapped his arm in a jumper and took the knife with him. Fortunately he was not seriously injured. Each wound was superficial, about 2 cm in diameter and 1 – 1.5 cm deep. There was no damage to the underlying structures such as nerves, major blood vessels or tendons. He required stitches and medication to reduce bleeding and the risk of infection and he was quickly discharged. There was no victim impact statement. On the information given to me he made a full recovery and was not traumatized by the incident.

Your counsel described your personal circumstances. I also have a report of your suitability for a home detention order. You were 44 at the time of this crime, and are now 47. You are currently living in stable accommodation with a friend in suburban Launceston. You have two children, a daughter who is 17 and a son who is 18. You are close to your daughter. Although she is still young she is supportive of you. She stays with you occasionally but is also able to live independently and to self-protect. You have demonstrated the ability to maintain employment. Until recently you were working as a courier driver until an arm injury stopped you from doing so. Your income is from social security benefits. At the time this crime was committed you had no convictions for serious violence. In 2017 you were found guilty of two counts of common assault but were released without conviction on an undertaking to be of good behaviour.. I accept that your relationship with Mr Triffett was a problematic one. There were numerous reports of family violence, mostly but not always with you as the victim. Your relationship with him did not cease after this crime and continued until August last year. In the meantime, it remained a tempestuous one. After this crime you were fined for breaches of a family violence order and bail conditions, and one count of assaulting him by scratching. You are diabetic which gives rise to an obvious need to manage your health. You have already spent 87 days in custody which has not been taken into account in any other sentence, and so it is just that I now take that into account.

I have concluded that a period of home detention is the appropriate sentence. Otherwise I would have sentenced you to a term of imprisonment, even though I may have suspended all of the

term. As to the conditions of the order, you said that for some years you have only drunk a glass of wine with dinner some nights. You maintained to the author of the assessment report that you have no issues with consumption of alcohol and you would consider a condition prohibiting it to be a deprivation of your liberty. In a sense, that is the whole point of a home detention order. In any event, the position may have changed since this crime was committed but heavy consumption of alcohol played an obvious part in this crime and in my view the order should require a period of abstinence. Accordingly there will be, in addition to all of the usual conditions, a condition that while the order is in place you do not consume alcohol. The objective gravity of this crime does not require imposition of a lengthy period of home detention.

On the indictment you are convicted. I make a home detention order. The operative period of the order is four months from today. I specify the premises at which you are to reside during the operational period of the order as [home detention premises] or such other addresses as may be approved by a probation officer. I order that on or before 5.00pm on 12 February 2025 you report to the office of Community Corrections at 111 Cameron Street Launceston, for induction into this order, and a further explanation as to its full terms. There will be conditions that during the operational period of the order:

- (a) you must not commit an offence that is punishable by imprisonment;
- (b) you must reside at the home detention premises;
- (c) you must be at the home detention premises at all times unless:
 - you are travelling to or from, or are at, premises at which you are seeking urgent medical treatment or dental treatment; or
 - because it is necessary to not be on the premises in order to avoid, or minimise a serious risk of, the death of, or injury to, you or another person; or
 - with the approval, of a probation officer or prescribed officer, given –
 - (i) so as to enable you to comply with a special condition; or
 - (ii) so as to enable you to seek or engage in employment; or
 - (iii) so as to enable you to attend an educational or training course or activity; or
 - (iv) so as to enable you to attend a rehabilitative or re-integrative activity or program; or
 - (v) so as to enable you to attend a court; or
 - (vi) for any other purpose approved by the probation officer or prescribed officer.
- (d) you must permit a police officer, probation officer or prescribed officer to enter the home detention premises;
- (e) you must permit a police officer to –
 - (i) conduct a search of the home detention premises; and
 - (ii) conduct a frisk search, within the meaning of the *Search Warrants Act 1997*, of you, at the home detention premises or at any other place or premises; and
 - (iii) take a sample of a substance found on the home detention premises or on the person of you;
- (f) you must comply with any reasonable and lawful directions of a probation officer or prescribed officer, including any directions as to the kind of employment, or the place of employment, of you;
- (g) you must submit to electronic monitoring, including by wearing or carrying an electronic device and:
 - (i) you must not, nor permit another person to, tamper with, damage or disable any device used for the purpose of the electronic monitoring; and
 - (ii) you must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring including in relation to the installation, attachment or operation of a device or system used for the purpose of electronic monitoring by a police officer, a

probation officer or prescribed officer or another person whose functions involve the installation or operation of a device or system used for the purposes of electronic monitoring;

- (h) you must, if directed by a probation officer or prescribed officer engage in a personal development activity, counselling, or treatment, engage in the activity, counselling or treatment in accordance with any directions given by the probation officer or prescribed officer;
- (i) you must submit to the supervision of a Community Corrections officer as required by that officer;
- (j) you must not take any illicit or prohibited substances. Illicit and prohibited substances include any controlled drug as defined by the *Misuse of Drugs Act 2001*, and any medication containing an opiate, 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 consume alcohol;
- (l) you must, if directed to do so by a police officer, probation officer or prescribed officer, submit to a breath test, urine test, or other test, for the presence of alcohol or an illicit drug;
- (m) you must 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.

This order comes into effect immediately, although I note that you may not be fitted with the electronic monitoring device until tomorrow. You must understand that if you do not comply with the conditions, imprisonment is likely. If you breach the order by committing another offence, the order must be cancelled unless there are exceptional circumstances, and in that case imprisonment would be highly likely.