

Mr Cooper, a jury has found you guilty of two counts of Criminal Code assault. They found you not guilty of a third count, which was alleged to have occurred at an earlier time. It is, of course, my responsibility to make findings of fact consistent with the jury verdict for sentencing purposes, but in this case, I am of the view, the facts substantially follow from those verdicts. To convict, the jury must have accepted the evidence of the complainant as to the 19 December incident, supported as it was by evidence of immediate complaint and injury.

The incident in respect to which you were found guilty, occurred on 19 December 2021. The crime was committed against your then partner, whom I shall refer to as "NB". You and NB had been in a significant relationship for about four years. You had moved into a home that you purchased together in March 2020. In the lead up to this incident, there had been some difficulties in the relationship. Both of you, it seems, had experienced issues of jealousy and mistrust. There had been arguments in respect to this. NB also experienced some mental health difficulties, which, on occasion, created tension.

On 19 December 2021, you had been at work in Hobart. You returned home. Things were tense between you and NB. She went to the bedroom and was laying on the bed. You went into the bedroom and saw a notification pop up on her watch. You were suspicious as to whom the notification was from. You asked her who it was from and she declined to tell you. You grabbed the phone out of her hand and tried to force it towards her face to activate face ID. At one point you pulled her hair to try and bring her face closer to the phone to achieve your purpose.

You began to accuse NB of cheating on you. A wrestle between you and she ensued over the phone. At one point, she left the bedroom and tried to make her way to the loungeroom. You took hold of her and made her return to the bedroom. You pushed her onto the bed and then pushed her onto the floor. When you did this, her head struck the floorboards with some force. You then leant over her with a knee straddled either side of her and placed your hands around her neck and squeezed. NB estimated that you applied pressure for somewhere between 10 and 20 seconds, although I acknowledge in the circumstances in which she found herself, it would be difficult for her to be accurate as to that time frame. Nevertheless, it felt like a very long time and she could not breathe properly. Her eyes started to roll and she felt as though she was going to pass out. This behaviour encompasses the first count of assault of which you were convicted.

You managed to grab the phone and stood up to look at it. NB took the opportunity to run from the house. She opened the front door and yelled out "somebody help me please, help me". Presumably concerned that the neighbours would hear, you came up behind NB and grabbed her around the waist and put a hand across her mouth. You told her to "shut the fuck up". This behaviour encompasses the second count of assault of which you were convicted.

NB was able to break free and sought assistance from neighbours. Police were called and you were arrested for an investigation into a family violence offence. NB was left with bruising to both sides of her neck. Her throat was sore, and she had some general soreness to her head and leg.

After this incident, you and NB separated. A family violence order was put in place. There is no suggestion that that family violence order has been breached. There is no suggestion of any further offending since the commission of these crimes.

You are 25 years of age. You have no relevant prior convictions. Since leaving school, you have always maintained employment. Most recently you have been employed in the public service. I accept you have a strong industrial history. You suffer from mental health difficulties also. I am told that you have experienced bouts of anxiety and depression and there has, on occasion, been suicidal ideation.

Family violence crimes are always serious. They inherently involve a breach of trust and are typically committed against vulnerable complainants. NB was experiencing difficulties with her mental health around the time these crimes occurred. She deserved your support and understanding, but instead you reacted to difficulties within the relationship with violence. Acts of strangulation are particularly serious because not only is such an act indicative of the exercise of power and control, but the act often leads to serious injury and sometimes death, even if those consequences are entirely unintended.

As far as I have been made aware, there are no lasting physical injuries, but of course the psychological impact of such a crime can be very serious. Here, the complainant has been badly affected. She has experienced panic attacks, flashbacks, and feelings of self doubt and loss. She was forced to sell the home in which this incident occurred. She has ongoing trust issues and often feels scared and anxious. This has affected her employment and her new relationship. She found the giving of evidence traumatising. This incident has exacerbated her previously existing mental health difficulties. The complainant speaks in her victim impact statement of the type of trauma and impact the Court readily understands is experienced by victims of family violence.

There is a strong need for the Court to provide a very clear indication that family violence is not to be tolerated and in sentencing such matters, general deterrence, denunciation, punishment and protection of victims are paramount sentencing considerations.

It is concerning that you have not acknowledged or shown any insight into your wrongdoing or the effect your crimes have had on NB. I am, however, satisfied that this behaviour was out of character for you and arose because of the tensions that had been building within the relationship. That, of course, can never excuse what you did. Family violence is a matter of significant community concern, and a fundamental sentencing obligation of this Court is to make it very clear to those who commit it, that it will not be tolerated, and it will be strongly punished. A period of imprisonment must be imposed to mark the seriousness of the offending. The only question is whether it is appropriate that I suspend such a period of imprisonment in part or in full.

I have determined, given your lack of prior convictions, the fact this offending occurred over three years ago now, and there has been no repetition of any such behaviour, and what I assess to be your solid prospects for reform, that it is appropriate that the period of imprisonment be suspended.

I make the following orders. You are convicted of the two counts of assault. In accordance with the *Family Violence Act, s 13A*, I direct that each offence be recorded on your criminal record as a family violence offence. You are sentenced to imprisonment for a period of twelve

months. The execution of the whole of that period is suspended on condition that for a period of two years you commit no offence punishable by imprisonment.

You should clearly understand Mr Cooper, that if you are foolish enough to breach the terms of the suspended sentence, the law is that a judge must activate it and make you serve it, unless it is unjust to do so.