

STATE OF TASMANIA v LACHLAN CHARLES WHITTON-LOWE

5 MARCH 2025

COMMENTS ON PASSING SENTENCE

JAGO J

Mr Whitton-Lowe, you have pleaded guilty to one count of assault on a pregnant woman. The offence occurred one evening between 1 May and 30 June 2022. The victim of your crime was your then partner. You and the complainant lived together. She was pregnant with your first child at the time.

On the evening of the assault, you had been out. You came back to the home very intoxicated. The complainant was asleep, but you woke her with your noise. You were talking about having a fight with your mate and were saying things like you would kill him. You were also punching the walls. The complainant tried to calm you down, but you were clearly very intoxicated and in a heightened emotional state. She returned to bed. You got into the bed, behind her. You were hugging her. You then put both arms around her neck and started to squeeze tight. Her breathing was affected. She was tapping your arms to stop you because she was very concerned about the increased force you were using. At one point, you said to her, "If you wasn't (sic) pregnant with my daughter I would fucking kill you."

The complainant confronted you the following morning about your behaviour. You said you did not know what she was talking about. It seems you were too intoxicated to recall your behaviour.

The complainant experienced a sore neck for several days, but there were no residual injuries.

The complainant did not immediately report this incident to police. However, there were later incidents that allegedly occurred during the relationship which were reported to police, and this matter was disclosed at that time.

You participated in a record of interview with police in 2024. You told police that you could not recall this evening, but did remember the complainant raising the incident with you the following day.

I have not received a victim impact statement from the complainant, but I have no doubt she found the incident distressing. Obviously, you were squeezing with sufficient force that her breathing was affected. The incident, in my assessment, is aggravated by the fact that you made the comment about killing her, in circumstances where she may well have believed, you could effect your intent. The fact you inflicted the violence upon her when she was pregnant, would inevitably have caused additional distress and concern about her unborn child.

You are 25 years of age. You have no relevant prior criminal history. You have a strong industrial record, having worked in the forestry industry for many years. Around the time of this incident, you and the complainant were experiencing difficulties. The complainant's brother, with whom you were also close, was killed in a marine accident. It affected both of you badly and you were still grieving his loss when this incident occurred. Shortly after the death of her brother, you also lost an uncle to whom you were very close. This exacerbated your grief and you began to consume alcohol excessively. It led to many conflicts and arguments within the relationship. The relationship came to an end in January 2024, by which time you and the complainant had two children together.

I am told that you have now developed an amicable relationship in which you and the complainant co-parent the children and you are flexible in terms of accommodating each other's needs. You have changed your employment so that you are more available to assist with the ongoing care of your children. I am told that your focus is now on working hard to ensure you can provide a positive and supportive future for your children. Whilst you have no memory of this incident, you are embarrassed and ashamed that you behaved in this manner. Your intake of alcohol has curbed considerably. You now recognise that you were endeavouring to deal with your grief by the heavy consumption of alcohol and that exacerbated difficulties within the relationship.

I am told there was one incident in early January 2024, which gave rise to a charge of emotional abuse or intimidation, which is being dealt with in the Magistrates Court, but that incident was the last difficulty within the relationship. That incident involved you making distressing comments to her as the relationship came to an end. It counts in your favour that over the last 12 months, there have been no ongoing difficulties and the relationship appears now to be on good terms.

Unfortunately, violence within relationships is all too common. It is a matter of great community concern. It is often difficult to detect and frequently involves vulnerable victims. It inherently involves a breach of trust. Courts need to condemn this type of conduct and take steps to deter others from engaging in it. Acts of strangulation or pressure being applied to the throat and neck area, 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 even death. In my assessment, your gross level of intoxication exacerbated the risk of injury as you had minimal ability to carefully judge what level of pressure you were, in fact, applying.

Your conduct deserves appropriate punishment, and in my view, the only appropriate sentence is imprisonment. However, given your lack of prior convictions, and the fact that you appear to have made positive changes in your life, including developing a more respectful and amicable relationship with the complainant, and addressing your excessive alcohol consumption, it is appropriate that I give you an opportunity to avoid actually serving the sentence by wholly suspending it.

I make the following orders. You are convicted of the crime. In accordance with the *Family Violence Act*, s 13A, I direct that it be recorded on your criminal record as a family violence offence. You are sentenced to imprisonment for a period of 12 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 need to clearly understand, Mr Whitton-Lowe, that if you 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. It is therefore important you strictly comply with the terms of suspension.