

STATE OF TASMANIA v RIKKI BLYTH and JACKSON SPRATT

28 FEBRUARY 2025

COMMENTS ON PASSING SENTENCE

BRETT J

Ms Blyth and Mr Spratt, a jury has found each of you guilty of two counts of assault. Ms Blyth, you pleaded guilty to a further count of assault at the start of the trial.

It is my task to determine the factual basis of sentencing but my findings must, of course, be consistent with the jury's verdict. My findings are as follows. These crimes were committed during a street altercation, which occurred in the early hours of a Saturday morning in September 2021. You and the two women whom you eventually attacked had all been drinking at the Commercial Hotel in the hours leading up to the relevant events. You did not previously know them and you did not meet them or have any interaction with them at the hotel. You were there with at least one other friend, and the women were there with their partners. I am satisfied that both of you, and them, had all had a considerable amount of alcohol to drink and each of you was affected by the alcohol to some extent.

Sometime after 2 am, you and one other person left the hotel, intending to go home. You waited in the car park beside the MAIB building for your ride home to arrive. Clearly, at least one or possibly both of you had taken a bottle of alcohol with you from the hotel. While you were sitting there, the two women walked past on the footpath. They were going to get some food. A verbal exchange started between you. While there is no doubt that you were enthusiastic participants in this exchange, I am satisfied that it was also contributed to by the women to some extent. It probably doesn't matter much, it was childish behaviour by everybody and it certainly did not justify what happened next.

I am satisfied that the women kept walking after the verbal exchange but you, in particular, Ms Blyth was not prepared to let it go. I point towards Ms Blyth about this because it is clear from the CCTV that someone walked purposefully away from your location in the car park towards the women obviously intent on continuing the altercation. I am satisfied that this was Ms Blyth. Mr Spratt followed but the verdict of acquittal on count one can only be consistent with the fact that at this point, you had not formed a common intention between you to assault the women. I am not sure about you Ms Blyth, you were clearly fired up which was undoubtedly contributed to by the alcohol you had consumed. In any event, Ms Blyth, when you caught up with them and after a short continuation of the verbal exchange, you attacked one of the women by punching her in the face. This is the assault to which you pleaded guilty.

A fight then started between you and her, as she attempted to defend herself. This fight took you both out onto the road and I accept that there was evidence that she was getting the better of you. She was bigger and probably stronger at the time so this is not surprising. Mr Spratt, you then committed the serious assault which constitutes count 2. You smashed an empty alcohol bottle which you were holding, over this woman's head. The blow caused her to fall to the ground, and to lose consciousness for a brief period. She also suffered a cut to the head undoubtedly from the broken glass. The jury's finding of not guilty on the count of wounding means that I must sentence you on the basis that you did not intend or actually foresee the likelihood that you might cause a wound to her. However, smashing a bottle over someone's head is a terrible and dangerous thing to do and it is fortunate that the woman was not more seriously injured. I accept

that you did this on the spur of the moment in a misconceived attempt to defend Ms Blyth, that is because she was losing the fight. Ms Blyth, you were found guilty of this charge on the basis of the common purpose rule. It follows that the jury concluded that by this time, you both had formed a common intention to perpetrate assault together on at least the woman who was assaulted, and so you are both responsible for the probable consequences of the prosecution of that unlawful purpose. Hence, Ms Blyth is criminally responsible for Mr Spratt's assault of the complainant with the bottle.

When the woman regained consciousness, she found herself on the ground being punched and kicked. I am satisfied that these blows were being administered by Ms Blyth. The complainant excluded Mr Spratt as joining in this attack, although there is other evidence which suggests that he did. I will accept that he did not actually join the attack but he did egg on Ms Blyth by telling her to stomp on the woman's face. I am satisfied that she did this at least once. Mr Spratt is guilty of the assault perpetrated by Ms Blyth under the common purpose rule. Because of the stage the fight had reached, the severity of the attack and your encouragement of Ms Blyth to stomp on the woman's head, your moral culpability for this attack Mr Spratt is high. The actions of both of you in respect of this part of the attack were cowardly in the extreme and very dangerous. The woman was on the ground, unable to defend herself and your assault had nothing to do with defending yourselves, it was simply concerned with hurting her. To deliberately attack someone's head in such circumstances is simply cruel, and risks the infliction of very serious injury. However, once again, fortunately she was not seriously injured as a result of this attack.

The complainant has understandably been significantly affected by this attack particularly from a psychological point of view. She has been suffering anxiety and depression, which her doctor attributes to the trauma of this assault. I do not think that this trauma is lessened or affected by the incident when she and her partner and others threatened you both when you ran into each other during a night out. If anything, it corroborates the ongoing impact of these crimes on her.

Ms Blyth, you are 21 years of age and were 18 when you committed these crimes. You have no prior convictions whatsoever and no convictions since. You and Mr Spratt have a young child together. You were remanded in custody for one night, an experience which I accept, you found extremely confronting. There is nothing else in your background before or since which would suggest that apart from your behaviour during this incident, you are anything other than a person of good character.

Mr Spratt, you are now 24 years old and were 21 when this happened. You have some prior offending, the most serious aspect of which is a number of drink and drug driving convictions. However, this seems to have stopped when you were arrested for these offences, there is no recorded offending since then at all. In 2018, you were involved in a serious traffic accident in which your lifelong friend suffered fatal injuries. You were not responsible for this accident, it was caused by an oncoming vehicle veering into your path of travel. You have been diagnosed with PTSD, and have undergone significant treatment since then. A psychologist suggest that this has some relevance to your actions on the night in particular your reaction to Ms Blyth being under threat during the fight, and also that imprisonment would be very damaging for your mental health. I will take these matters into account.

Late night assaults by people who have been drinking committed against innocent pedestrians in public places are unfortunately prevalent in Launceston and a matter of great concern to the community. It makes the CBD an unsafe place for people to go, particularly late at night. The

fact that you were affected by alcohol does not excuse or mitigate your conduct. In fact, it makes it worse because the normal restraints and inhibitions that might otherwise avoid this kind of appalling behaviour were missing. The perpetration of the violence in a public place, in company with each other and fuelled by alcohol are all aggravating factors which emphasise the need for a sentence of general deterrence.

On the other hand, in arriving at an appropriate sentence, I must have regard to the very significant delay in having this matter resolved by trial. This matter was investigated by police and you were both charged almost immediately. That was back in September 2021. We are now in February 2025, approximately 3 ½ years later. There is no question that a trial was necessary, this is demonstrated by the fact that you were both found not guilty of some of the more serious charges levelled against you. There is also no suggestion that either of you have contributed to the delay in any way. I take the view that a 3 ½ year delay to resolve a case like this even with the pressure under which the justice system is currently placed, is inexcusable. There is no doubt that this will have caused you great worry and anxiety and you have had to endure this for a lengthy period. You have also been subject to the obligations of bail for that period. This constitutes extra punishment that you have both already suffered for your actions, and constitutes a strong mitigating factor.

I think that the seriousness of the assaults does require a sentence of deterrence. In my view, a sentence of imprisonment is called for in respect of conduct of this nature. Those who perpetrate violence such as this, particularly in these circumstances must realise that the consequence will be strong punishment. I intend to impose the same sentence on each of you. Each of you is guilty of actually perpetrating one of the more serious assaults and in respect of the other you are guilty under the common purpose rule. Although Ms Blyth is to be sentenced for an extra assault, I think that is balanced out by Mr Spratt's use of the bottle as a weapon. Further, given the various mitigating factors including in particular the delay in resolving this case and your respective young age at the time of commission of these crimes, I take the view that it is appropriate to wholly suspend those sentences. Having regard to your otherwise good character, I do not see the need to impose any other form of community-based order.

Accordingly, the orders I make are as follows:

- a. You are both convicted of the crimes of which you have pleaded guilty or been found guilty;
- b. Each of you is sentenced to a global term of 10 months imprisonment, the whole of which will be suspended for a period of 18 months on the condition that you are not to commit another offence punishable by imprisonment during that period.

I would warn you that an offence punishable by imprisonment includes offences such as drink driving and sometimes what would otherwise seem to be quite minor offences. If you commit such an offence within the 18 month period then you will become liable to serve that time in prison. It does not mean you necessarily will but you will certainly be liable to do so.