

STATE OF TASMANIA v PAUL LANCE BROAD
COMMENTS ON PASSING SENTENCE

29 APRIL 2016
PEARCE J

Paul Broad pleads guilty to one count of assault. I agreed to also deal with his plea of guilty to a summary count of trespass.

On 17 June 2015 at about 3.30pm, the complainant, Matthew Somerfield, was working on a ladder at the front of his house at Youngtown where he lived with his wife and children. The defendant, who lives across the road, saw him there. There had been some antagonism between the two in the past resulting in the defendant being charged with trespassing on the complainant's property. Motivated by his anger about this, the defendant walked onto the complainant's property to confront him. After demanding that the complainant get down from the ladder, the defendant shook the ladder causing the complainant to fall awkwardly onto his back, winding him. The defendant then sat on top of the complainant and punched him to the right side of his face. He choked the complainant by leaning on his neck with his forearm for several seconds, while threatening to kill him. The complainant managed to roll onto his stomach but the accused got onto his back and punched him to the back of his head about 40 times. After struggling over a hammer, the defendant then got up. Before leaving he kicked the complainant to the left forearm while he was still on the ground.

The defendant is now aged 21. He is in a stable relationship with a young child and has a good employment record. The principles of sentencing young offenders apply to him. He should not be sent to prison unless there is no alternative. His rehabilitation, if that can be achieved, is an important sentencing consideration. He has prior convictions as a youth for dishonesty and driving offences but nothing particularly serious. His prior offences include counts of common assault as a youth, but because of his age and the sentence imposed for them I infer that they were not bad cases and are of limited relevance. In contrast, this was a serious assault. The complainant was subject to a sustained and terrifying attack in the grounds of his own home, virtually all of which was committed when he was already on the ground and not able to defend himself. It was a gross invasion of his rights and his personal integrity. It had a significant effect on him. He suffered a great deal of pain and distress. He had neck pain and tenderness and bruising to his head. He was admitted to hospital where he remained an inpatient for eight days before being transferred to another hospital where he remained for a further eight days. The reason for the initial admission is partly explained by the great number of investigations which fortunately cleared him of any serious physical injury. However the prolonged admission resulted from the post-traumatic stress disorder from which he suffered because of military service and which was significantly exacerbated and required continued hospitalisation. This assault has been so upsetting for him that the complainant and his family have sold their house and moved away.

The only appropriate sentence is a term of imprisonment. However, I have decided to suspend it. The defendant should perform community service as a deterrent and as punishment and so he can make some amends for what he has done. He should understand that if he re-offends in any serious way it is virtually certain he will be required to serve the sentence. If he fails to perform the community service as required the same result is likely.

Paul Broad you are convicted on each count. I impose one sentence. You are sentenced to imprisonment for five months. I wholly suspend that sentence for 18 months. It is a condition of that sentence that you not commit any offence punishable by imprisonment during that

period. I impose an additional special condition that you perform 140 hours of community service. You will pay the victims of crime compensation levy of \$70 within 28 days.