

Mr Hickman, you have pleaded guilty to a number of charges arising from two discrete episodes of criminal behaviour, separated in time by approximately 11 months. Unfortunately, the objective seriousness of the offending perpetrated during each episode is high and there are some significant similarities.

The first in time was committed on 8 and 9 December 2022. You have pleaded guilty to one count of rape, nine counts of assault and one count of unlawfully injuring property. The crimes against the person were all committed against the same complainant, a woman who at that time was aged 47. She and her partner had recently separated, and she was living in a unit in Launceston by herself. You were homeless and you and she had met by chance. In an act of generosity, she offered you temporary accommodation in her unit. On the evening of 8 December, which was a few days after you moved in, you, the complainant and her partner were sitting at the kitchen table having a drink. Without warning or provocation, you became enraged and assaulted the complainant by grabbing her by the throat with one hand and pushing her head back with the other. Your hold on her throat was tight but short lived because of the intervention of her partner.

In the afternoon of the next day, while you were in the unit together alone, you again became violent and abusive towards her. It was the start of a violent and appalling course of conduct against the complainant, which continued for the next several hours, and only came to an end with the arrival of police in the early hours of the next morning. Your attack on her on her was without warning or provocation, and only you and she were present in the unit during its perpetration. Your conduct started with verbal abuse, throwing things at her, shoving her and holding a closed fist against her temple. She tried to get away from you by going to her bedroom, getting into bed and locking the door. However, your verbal abuse of her continued, and eventually she unlocked the bedroom door in response to taunting from you.

After this had gone on for some time, you entered her bedroom. She was in bed and lying on her back under the blankets. You sat on top of her, grabbed her by the throat and punched her with a closed fist to both sides of her head several times. You then went in and out of the room a number of times, and each time you punched her again and verbally abused her. After doing this three or four times, you came back into the bedroom and sat on her again. She pulled her arms up to cover her head to protect herself but you bit her on the arms a number of times, leaving bite marks. You then got into the bed pulled her pyjamas and underpants down past her knees, and raped her. The act of rape continued until you ejaculated inside her. While you were doing this, you bit her a number of times on her breast.

In respect of this crime, you claim to have had a mistaken belief that the complainant was consenting to sexual contact with you. Apparently, the basis of this claim is that the complainant did not physically resist you or attempt to fight you off. It is conceded that you were under the influence of methylamphetamine at the time, and any belief may also have been influenced by your state of self-induced intoxication from those drugs. Your counsel quite properly concedes that any mistaken belief was objectively unreasonable. I would go further and say that your claim is ridiculous, contrived and completely self-serving. In my view, this belief, if it exists at all, provides you with no mitigation in any event. The formation of such a belief, albeit as a result of being affected by the illicit drugs you had consumed, in the context of the course of violent

terror to which you were subjecting this woman, is in my view an aggravating factor. The fact that you were prepared to believe such a ridiculous proposition in those circumstances, and to act on it by perpetrating the rape, it is demonstrative of just how dangerous you were during these events. Further, it suggests a sinister purpose in perpetrating such violence, a matter which of course is relevant to your propensity for further offending of a similar nature in the future. I will return to the need for a sentence which emphasises specific deterrence shortly.

When you had finished raping the complainant, you continued to verbally abuse her. You also threatened her with an umbrella, telling her that your intention was to penetrate her vagina with it, and taunting and mocking her in respect of the rape. The words you used were: "*It was good was it? Wait till I put this up you*". The complainant pulled the bed clothes up as a protective measure, and this seemed to anger you. You said that she "*hadn't seen anything yet*". You then pulled the covers off her, grabbed her by the throat with one hand and used your other hand to push your fingers into her eyes. The complainant says that at this point, she thought she was going to die. You then somewhat bizarrely told her to call the police. When she got up to do so you, in her words, "lost it completely". She tried to leave the unit by the front door and picked up a metal ornamental rooster for protection. As she was trying to get out the door, you grabbed the ornament from her and hit yourself in the head with it, while you continued to taunt her. When she asked you not to hurt her and told you that she wanted to leave, you hit her with the ornament on the right forearm, causing bruising and swelling.

You then used two hands to push her to the chest, causing her to fall backwards and hit her head on the ground. She was dizzy and stayed on the ground. You then stood over her and grabbed her around the throat briefly. After this, you committed the damage property offence by throwing the ornamental rooster which hit and smashed a glass shelf. You also kicked two holes in the kitchen wall.

You then picked up a large piece of the broken glass and threatened yourself with it. You then pointed the glass towards the complainant and threatened to kill her with it. You again picked up the ornamental rooster and charged with it towards her.

The offending came to an end shortly after this when police, who had been called by a neighbour, arrived at the unit and arrested you.

The complainant was taken to hospital where she underwent a forensic sexual assault examination. She suffered extensive bruising and swelling to her face and other areas of her body. Some of the bruising was caused by the biting. I have received, read and considered the complainant's impact statement. She continues to suffer from debilitating psychological and emotional symptoms, of a nature which would appear to me to be entirely consistent with violence and trauma of the type inflicted by you on her. These ongoing issues have impacted her relationships, her sense of safety in her home and her ability to work and pursue study. I have no doubt that the impact is as serious as she describes. It is impossible to say when and even if she will recover from the emotional and psychological consequences of your offending.

After your arrest, you were held in custody until 13 February 2023 when you were released on bail. You remained at liberty until you committed the second set of offending on 6 and 7 November 2023. That offending was also perpetrated against a woman whom you had just met. She had also offered you accommodation on her property because of your homelessness. You repaid her generosity by brutally assaulting her on a sustained basis over two consecutive days.

In respect of that offending, you have pleaded guilty to the following crimes: one count of strangulation, three counts of assault and one count of unlawfully injuring property. You have also pleaded guilty to the summary offences of common assault and destroy property. Further, the State has applied to activate a suspended sentence of 2 months imprisonment which was imposed upon you about a month before you committed this offending, for a number of summary offences, including drug and bail matters. You have not opposed that application, and the sentence should and will be activated.

The violence to which these charges relate includes an act of strangulation during which you squeezed the complainant's throat with your right hand for about 10 to 15 seconds, resulting in her not being able to speak or breathe. You also punched her a number of times. At least two of those were punches to the face. You grabbed her by the throat again more than once. You caused damage to her house and property. All of this occurred in the context of you terrorising her by threatening her with further violence and ultimately telling her you would kill her if she called police. Your general behaviour was erratic and frightening. You caused significant injury, including bruising and swelling around her eyes and bruising to her back, arms and legs. You also caused pain and tenderness to her back and neck. The strangulation was, of course, extremely dangerous and had and still has the potential to have longer term consequences.

The only explanation you can offer for your appalling conduct in respect of both episodes is that you were under the influence of methylamphetamine on each occasion. This is consistent with your criminal record, which demonstrates a lengthy history of drug offending and I infer drug use. There are also numerous prior convictions for offences of dishonesty and other offences which your counsel says are consistent with your long-term homeless status. However, apart from a minor offence or two, you have no criminal history indicating a propensity for violence. You grew up in Western Australia in a home in which you were exposed to poverty, family violence and substance abuse. Poverty and substance abuse have afflicted your own adult life. Since arriving in Tasmania in 2015, you have been continuously homeless, except when remanded after each occasion of offending. I note that you have remained in custody since perpetrating the crimes in November 2023.

I regard your offending as extremely serious. On each occasion, the violence was sustained and dangerous and inflicted on a person who had put herself in a vulnerable position because of her generosity and was completely undeserving of your cruelty. Each set of offending was a breach of the trust demonstrated by the complainant inviting you into her home. The rape of the first complainant was accompanied by violence and degrading taunts and conduct. Clearly, the sentencing aims of general deterrence and denunciation in respect of the crimes against both women are important. Your repetition of this conduct is also a matter of grave concern and necessitates a sentence which will deter you from acting in this way again. The fact that you were under the influence of methylamphetamine at the relevant time provides you with no mitigation whatsoever. On the contrary, it suggests that if you engage in such drug use after your eventual release from prison, you pose considerable risk to persons in the community who may come into contact with you in the future including in circumstances similar to the complainants in this case. Your pleas of guilty have had utilitarian value but I do not believe that they indicate any remorse or insight into your offending or its impact on your victims. The case against you in respect of each set of offending was extremely strong, in fact on each occasion your offending was effectively interrupted by police who then arrested you. In my view, your pleas can be seen as bowing to the inevitable. It follows from all of this that the sentences in this case must also emphasise protection of the community and specific deterrence.

In my view, these crimes call for lengthy sentences of imprisonment. I must of course consider the question of totality, but the reality is that that consideration will have little impact on the assessment of the appropriate sentence. Each episode constituted separate offending committed against different complainants, and consisted of serious crimes committed over a significant period against an individual and vulnerable victim. You committed the second lot of offending while on bail for the first. You have not shown any true remorse or insight. The aggregate sentence of course must not be crushing having regard to your background and prospects, but must also respond proportionately to the objective seriousness and discrete nature of the criminal behaviour.

As far as the question of parole is concerned, I am satisfied that I should make a non-parole order. It will be of a length which takes into account the serious and repeated nature of the offending, and the concerns I have expressed about the future risk which you pose to the community. I detect little real prospect of rehabilitation at present. However, I accept that this may change and accordingly the Parole Board should be provided with the opportunity to respond to any real prospect of rehabilitation demonstrated by you while in custody. Further, the non-parole period will be the minimum period which I think you should spend in prison have regard to all of the circumstances.

The orders I make are as follows:

- a You are convicted of the crimes and offences to which you have pleaded guilty;
- b The sentence of 2 months imprisonment which was imposed by the Magistrates Court on 5 October 2023 is activated and will be backdated to commence on 30 August 2023. You are not eligible for parole until you have served one half of that sentence.
- c For the crimes of rape, assault and unlawful injuring property committed on 8 and 9 December 2022, I impose a global sentence of 8 years imprisonment, which will be served cumulatively upon the activated suspended sentence. You are not eligible for parole until you have served 5 years of that sentence.
- d For the crimes of strangulation, assault and unlawfully injuring property, and the offences of common assault and destroy property committed on 6 and 7 November 2023, you are sentenced to imprisonment for 2 years and 6 months, which will be served cumulatively upon the 8-year sentence already imposed. You are not eligible for parole until you have served 1 year and 6 months of that sentence.
- e For the purposes of S 92A (3) of the *Sentencing Act*, I specify that:
 - a. the total term of imprisonment which you are liable to serve in respect of all of the above sentences is 10 years and eight months commencing on 30 August 2023.
 - b. The total period that you must serve before you become eligible for parole is the aggregate of the non-parole periods relating to the said sentences, which is a total period of six years and seven months.
- f I make compensation orders in favour of Rebecca Tams and Emelene Debritto in an amount to be assessed, and I adjourn assessment of each sum sine die.

I make an order under the *Community Protection (Offender Reporting) Act 2005* that the offender be placed on the register and bound by the provisions of that Act for a period of 15 years to commence on his release from prison.