

Luke White, you have been convicted on your plea to the amended indictment, charging a single count of assault contrary to s 184 of the *Criminal Code*.

When at Ravenswood in Tasmania on or about 5 September 2023, you unlawfully assaulted Robert William Barrett at Ravenswood in Tasmania by pushing him to the ground, kicking him to the head and punching him to the head.

You were born on 17 December 1991 and were aged 32 at the material time when you assaulted the complainant. Mr Barrett was much older than you are, almost twice your age. At the date of assault, Mr Barrett had just turned 62 years of age.

Mr Barrett was known to you and you had known each other for some five or six years. The nature of your association is a little unclear, but it appears that Mr Barrett used to drive you around from time to time as you did not have a car or licence. In that regard, it is noted that you have a history of motor vehicle offences which from time to time has led to disqualification, including but not limited to a period of three months disqualification in 2023.

On Tuesday, 5 September 2023 at approximately 11am, Mr Barrett approached the IGA supermarket located at 12/2 Prossers Forest Road, in Ravenswood. The complainant, Mr Barrett, saw you and engaged you in a heated argument. Mr Barrett escalated the argument by shoving you. This led to a fight between the two of you. It appears from submissions made by Mr Doyle, who appeared for you on the sentencing hearing, that the dispute occurred because Mr Barrett believed that you owed him money.

I am told by Mr Doyle, when he appeared for you on the sentencing, that the dispute was over \$500. Mr Doyle told the Court that there had been a telephone call beforehand between you and Mr Barrett and there had been a verbal argument about the alleged debt, and Mr Barrett said "I'm coming down to where you are to sort this out".

As I have noted, the offending occurred at or about 11am on the morning of 5 September 2023. It occurred near a milkbar at Ravenswood when you walked up to Mr Barrett and offered to give him \$2 for a coffee. Mr Barrett refused but you persisted and ultimately gave Mr Barrett the \$2. Mr Doyle said this was a gesture of goodwill to try and defuse this argument. That account was accepted by Mr Sered, who appeared for the Crown.

The Ravenswood IGA, at the material time, employed a security system that included CCTV cameras. Both the argument and the subsequent fight, the subject of your offending, were recorded on video but not with any audio. The film of the incident was played to the Court for the purposes of sentencing. You were wearing a red jacket at the material time.

The State's case is that you initially acted to defend yourself then, when shoved by Mr Barrett, that you then unlawfully assaulted the complainant when you used an unreasonable amount of force in the circumstances, when you pushed Mr Barrett to the ground, kicked him in the head and punched him in the head. That is reflected in the CCTV recording.

The State says that as a result of your unlawful assault, Mr Barrett sustained acute fractures through bilateral angles of the mandible or the jaw, with displaced fracture ends. The

complainant also sustained a cut to the webbing of his fingers but the State accepts that this injury might have been caused by the lawful conduct of the accused, ie you. Mr Barrett sought medical treatment at the Launceston General Hospital shortly after the assault. He underwent a surgical procedure including an open reduction and internal fixation of the right mandible, tooth extraction, incision and drainage of left mandibular abscess and exploration of the left hand wound on 7 September 2023. Mr Barrett subsequently underwent a second surgical procedure on 10 September 2023 for open reduction and internal fixation of his other mandible, the left mandible.

During the course of the surgeries to repair the complainant's mandible, doctors inserted four plates and 22 screws into the complainant's jaw and these plates and screws remain in the complainant's jaw today. Mr Barrett's medical treatment at the Launceston General Hospital was complicated by airway compromise, requiring intubation and intensive care admission, meaning a medically induced coma, as well as bi-aspiration pneumonia, requiring intravenous antibiotics. He was discharged on 20 September 2023. Mr Barrett spent some two weeks in hospital.

You were arrested on 17 September 2023 where you declined to participate in a formal interview. You entered a plea of not guilty on 29 February 2024 in the Launceston Court of Petty Sessions and were committed to the Supreme Court for trial, with the first appearance on 22 April 2024. You were indicated on 24 December 2024. The matter was listed as a backstop trial in the February grid this year, but you failed to appear and a warrant was issued. The warrant was executed on 21 March 2025 and you were remanded in custody on that date. You have been in custody on this matter since 21 March 2025, and by my calculation, that is 90 days until today, roughly three months.

You have a substantial criminal history, which is set out at pages 28-53 of the Crown papers. You have relevant prior convictions for violence, these include affray, being armed with intent to commit an indictable offence, stalking, intimidating and threatening fear, all in New South Wales in 2018. In Tasmania, your history is largely motor vehicle and firearms offences, and offences of dishonesty. I note that you have been convicted in November 2023 of common assault, which is after the offences for which I am sentencing you. You were convicted and discharged for a Family Violence Order, which I was referred to during sentencing submissions, at page 37 of the Crown papers. I have not taken that offending into account for the purposes of this sentence.

In mitigation, Mr Doyle submitted that whilst you have not pleaded guilty at an early point in terms of the chronology, you had not seen the film until it was provided to you, shortly before the sentencing hearing. Whilst you must know whether you assaulted Mr Barrett or not, I appreciate there was some issue as to the blows struck, which constituted the assault, and those issues may have affected any plea bargain. I recognise that in those circumstances, your plea has utilitarian value whenever it is made because it saves the cost and delay of a trial.

Mr Doyle submitted that before his involvement, you had some legal representation but had some difficulties because you were homeless and had difficulty in engaging in this matter, so it seems to be that you have not had an opportunity earlier than when you were able, to actually review that footage. However, I note that you did not answer your bail in February 2025 and were arrested after the issue of a bench warrant, and that may also have played a role in any delay in the timing of your plea to this charge. That was accepted by Mr Doyle.

From the CCTV, this appeared to be a very serious assault. I was able to see the film. Your counsel sought to explore the probabilities as to whether some of Mr Barrett's injuries may have been caused or contributed to by the lawful force that the Crown concedes you used prior to the unlawful force, as set out in the particulars in the indictment in pushing Mr Barrett to the ground, kicking him to the head and punching him to the head.

Mr Barrett's victim impact statement does not distinguish the effect of the different phases of the altercation and I expressed some concern that there may need to be a disputed facts hearing. Ultimately, Mr Doyle accepted that it was a very forceful assault and that the assault caused at least one break to Mr Barrett's jaw.

I was told that you have had a very tragic life to this stage. You have been a victim of abuse, both sexual and physical, from a very young age. You recall physical abuse occurring as child, you think at about 10 or 12 years of age, and a dysfunctional upbringing whereby there were multiple individuals brought into your life – partners, friends of parental partners and the like – whereby you would be the victim of physical assaults, even as a child, and frequently throughout your childhood. That has left you in circumstances where I am told you have a very heightened fight or flight response to confrontation.

Mr Doyle suggested that your circumstances of your life experiences explain why you reacted the way you did. It is not asserted that there is a mental element too. Then, somewhat paradoxically perhaps, Mr Doyle then went on to describe struggles that you have had with your mental health. In the end, it is your responsibility to address any anger management issues or tendency to over react to confrontation. That is your responsibility.

In response to an invitation by the Court, a pre-sentence report was ordered and provided. It is dated 3 June 2025. The pre-sentence report notes that you are one of seven siblings and grew up in Sydney. Your father died when you were 11. Your mother developed a gambling problem. You experienced sexual abuse as a child, it appears at the hands of your uncle. You have no contact with your immediate family and I am told you are regarded as a "black sheep" due to your criminal behaviour.

You relocated to Tasmania in 2016. You are the biological father of six children from various unsuccessful relationships. You have no contact with your children at this time, although you expressed an interest in pursuing supervised visitation through Child Safety Services on your release. The report records that the Safe at Home Management System indicates that your name appears in respect of 14 separate incidents, from 15 June 2021 to 1 July 2024, with you listed as a victim in 11 and as a perpetrator in three.

When you were taken into custody in March 2025, you were effectively homeless. You have an interest in drawing and you have expressed a strong interest in pursuing a TAFE course in computer-aided drawing and drafting design. You have completed school up to year nine. At school you were frequently suspended for fighting and other disruptive behaviour. You have obtained a Working with Vulnerable People card and completed a Certificate III in Youth Studies and have commenced working towards a certification in community service. Your Working with Vulnerable People card was revoked in 2014 after you were found being in possession of methamphetamine.

You were a talented footballer and skateboarder during your teens, but you were barred from competition following an altercation. Your employment history is patchy. You have over three

years' experience in construction in Queensland. You worked in a cafeteria in 2014 and again for six months in 2020. You have worked in the prison laundry and have no confirmed employment prospects on release. You have been a long time use of methamphetamine. At the peak, you were using \$300 of methamphetamine daily. You sold drugs to support your use. You have recently been participating in the opioid replacement programme, during which you receive an injection every three weeks to help manage your cravings and illicit drug use. You hope to stay in that programme when released back into the community. The report advises that you have never had the opportunity to participate in any formal drug or alcohol counselling. You have been diagnosed with paranoid schizophrenia and drug induced psychosis and prescribed anti-psychotic medication.

The theme that runs through the pre-sentence report is one of life opportunities, marred by violence and aggression. You acknowledge that your use of illicit substances is closely linked to your offending behaviour. It is to be noted, however, that your aggression seemingly has its origins before your use of methamphetamines began. The combination of your diagnosis, aggression and drug use makes you potentially very dangerous and untreated, a significant risk to the community.

You have been the subject of community correction orders, both for 12 months in 2020 and six months in 2024, and a supervision order for 12 months in 2024. Your response has been mixed to poor and sporadic. While some of that may be explained by your homeless status in 2024, it appears you have continued to use methamphetamine and have, from time to time, endured poor mental health. Despite you being assessed as suitable for a community correction order with supervision condition for a 12 month period. That recommendation appears to mirror much of what was attempted by the earlier order in 2024. The pre-sentence report specifically notes "safety issues associated with potential substance use".

I do not accept the submission by Mr Doyle that the victim in this matter was, ultimately, the aggressor. In this instance, that is not reflected in the CCTV or the medical evidence. It was put to me that your situation is, with your fight or flight kicking in, the adrenalin kicking in, you react in an unlawful way very quickly after physical confrontation starts as the lawful conduct. Mr Doyle submitted that even within that conduct, there continued to be verbal threats to you so that you continued to think this might continue and escalate.

Mr Barrett was a 62 year old man who did not appear to pose any significant physical threat to you. You could easily have walked away from this altercation. Whilst your failure to do so may reflect your health issues, illicit drug use and personal history, that can be no excuse for the offending. There is some indication in the pre-sentence report that you feel sorry for Mr Barrett and have expressed some remorse. That is noted, but it is essentially meaningless unless you take steps to address the danger that you pose to others by dealing with your aggression, drug use and the consequences of your paranoid schizophrenia.

Luke White, you are convicted on one count of assault. It was a very serious assault and led to the breaking of the complainant's jaw. You represent a serious risk to the public unless you deal with your personal issues around your aggression, use of methamphetamine and paranoid schizophrenia. I sentence you to 12 months' imprisonment, to be served immediately but backdated to 21 March 2025, but importantly, with seven months of that term to be suspended for 18 months. It is a condition of that order that whilst in force, you do not commit another offence punishable by imprisonment. That condition will operate upon your release from

prison. If you breach that condition, then a court must activate the suspended part of your sentence, unless that is unjust.

In addition, I impose a condition on the suspended sentence that for the 18 months that the term is suspended, and following your release from prison, you will be subject to the supervision of a probationary officer. The core conditions required by the *Sentencing Act 1997* apply to this condition and will be set out in the order that you will be given. These include, but are not limited to, that you must report to a probation officer at the office of the Community Corrections in Launceston within three clear working days of your release. You must submit to supervision and comply with the directions given by your probation officer. You must not leave Tasmania without permission and you must notify any change of address.

In addition to the core conditions required, the order will also include the following special conditions that you must comply with during the operational period of the order. The conditions include:

- (i) Submit to the supervision of a probation officer as required by that officer;
- (ii) Attend educational and other programmes, undergo assessment and treatment for alcohol or drug dependency; and, in particular, you must attend, participate and complete the EQUIPS addiction programme as directed;
- (iii) Submit to testing for alcohol or drug use, and submit to psychological or psychiatric assessment as directed by a probation officer;
- (iv) Undergo assessment and treatment for drug dependency and submit to medical, psychological or psychiatric assessment or treatment as may be directed by a probation officer.

The intention of this sentence is that having recognised the need for general and specific deterrence, that you have the opportunity to get assistance whilst under supervision in order to turn your life around.