

COMMENTS ON PASSING SENTENCE

WOOD J

Phillip Maxell Jones, you have pleaded guilty to two counts of assault contrary to s 184 of the *Criminal Code* and one count of aggravated burglary contrary to s 245(a)(iii) of the *Criminal Code* in that you entered a dwelling house with intent to commit a crime of assault.

You were in a relationship with one of the complainants, Jade Donohue, for approximately 12 months. During that time, you spent periods in custody. During the most recent period in custody, Ms Donohue ended your relationship.

You were released from prison on 23 November 2022. Three days later, on 26 November 2022, you and three women travelled from Hobart to the complainant's address at Longford. The women were Tanisha Hovington, Cassey Smith, and Nicole Brown.

Ms Donohue was at home with some friends when you and your group arrived. You knocked on the door and when it was opened, you and Ms Hovington and Ms Smith barged inside. Ms Brown remained in the car.

The group were inside for 10-15 minutes. Your intention, and the common understanding shared by the group, was that you would collect clothes that belonged to you and bring Ms Donohue back to Hobart with you to recommence your relationship.

Ms Donohue, however, did not want to go with you and she refused. You argued with Ms Donohue and yelled at her. You assaulted her by punching her to the head several times. You hit her to the head firstly in the kitchen and then punched her to the mouth while she was on a couch, causing a chip to her teeth. You then hit her to the back of her head, which caused her scalp to split. During this violence, you also smashed her television.

Meanwhile, Ms Hovington and Ms Smith were taking items of property belonging to the complainant.

You coaxed Ms Donohue to leave the address and go with you and the others to Hobart. Ms Donohue agreed in a bid to appease you and stop your violence.

As you and Ms Donohue were leaving her address, a concerned neighbour and friend, Mr Parker-Grace, tried to intervene and talk to you. You became angry. When Mr Parker-Grace returned to his house, Ms Donohue followed him. You went to Mr Parker-Grace's property and pushed past Ms Donohue, who was standing in the doorway. You entered Mr Parker-Grace's house without permission and with an intention to assault him.

Once inside, you punched Mr Parker-Grace to the head and face several times. You caused a laceration above his right eye. You returned to the vehicle and drove back to Hobart with the same three women and Ms Donohue. At one point, you and Ms Hovington stopped Ms Smith from assaulting Ms Donohue in the car.

On the way, your sister was contacted by one of the occupants of the car. She knows the complainant and she drove out to meet the car you were in and to pick up the complainant. On meeting your vehicle, the complainant got into her car. Ms Jones drove her to the Royal Hobart Hospital.

Ms Donohue sustained a number of injuries: impaired vision in her left eye; a wound to her nose; swelling and bruising to her left eye and to the back of her head; and chipped lower teeth.

An ambulance was called to Mr Parker-Grace. He sustained a wound to his right eyebrow.

You and the others were stopped by police and arrested on your return to Hobart. You were interviewed by police. You did not give an honest account regarding your violence and assault upon Ms Donohue, however, you admitted your criminal conduct in relation to Mr Parker-Grace.

On 27 November, a Family Violence Order was made protecting Ms Donohue from you which is to remain in force indefinitely unless revoked or varied.

In the period of time from 10 March 2023 until 1 November 2024, you have had periods of time in custody amounting to 331 days which are attributable to this matter, and from that date, another 193 unallocated days in custody until today. That amounts to a total of 524 days that have not been allocated to a sentence. Accordingly, the sentence I impose should be backdated to the notional date of 6 December 2023.

You are 41 years of age. You have an extensive record of prior convictions for crimes of dishonesty and driving-related offences, and a few offences involving violence. Notably, you were sentenced in 2007 for two offences of common assault attracting three months' imprisonment; in 2009 to five months' imprisonment, one suspended, for the crime of assault a police officer; in 2016 to a term of imprisonment for multiple breaches of a Family Violence Order; and in 2017 to 15 months' imprisonment, six suspended, for a crime of assault.

After committing the crimes before the Court today, you committed multiple breaches of an interim Family Violence Order involving the same complainant, Jade Donohue, and two offences of assault involving another female complainant. You were sentenced to nine months' imprisonment, three suspended, commencing 11 October 2023.

You have served many terms of imprisonment and spent much of your adult life in prison. Some sentences have been partially suspended and, while you have had the benefit of supervised probation in some instances, you have not ever had the benefit of parole.

Your childhood and adolescence were profoundly disadvantaged and disturbed by neglect, loss, and trauma. Your two younger siblings tragically died at a young age. You lived with your mother until you were 8 years of age, when you made made a ward of the state. You were placed at a group home where you experienced trauma. At 10 years of age, you were influenced to commit crimes. You did not attend school. You were sentenced to periods of youth detention and, whilst there, experienced trauma and abuse.

I acknowledge the lasting effects of a background of trauma and neglect and take them into account. These effects provide context for your lack of education, lack of employment prospects, and very limited opportunities. It explains your abuse of substances from a young age. You used drugs such as 'ice' from around 14 years of age to relieve your emotional pain.

The defendant has been diagnosed by psychiatrist, Dr Helen Schultz, with Post Traumatic Stress Disorder. He has also been assessed by Dr Jennifer Wright, a clinical and forensic psychologist, as having symptoms of PTSD which impacted his functioning. His symptoms include mood fluctuations, serious anxiety, social isolation, hypervigilance, and intrusive

thoughts about traumatic incidents. His symptoms have had a widespread impact on his life affecting his mental health, his capacity to learn and receive an education, and to obtain employment. They have adversely affected his behaviour and resulted in an overall lack of stability in his life. He has not ever had any treatment for these symptoms.

Due to his trauma history, a personality disorder, and substance abuse, the defendant is assessed as at a high risk of committing future family violence. He has traits of Borderline Personality Disorder (often referred to as Complex PTSD), as well as some features of Antisocial Disorder. Behaviourally, he is impulsive and fails to conform to social norms. He also meets criteria for Substance Use Disorder. In Dr Wright's opinion, Mr Jones's functional capacity is severely impacted by his personality disorder in a number of life domains.

It is Dr Wright's opinion that the assault on Ms Donohue was impulsive violence occurring in the context of an argument and her rejection of him. In her opinion, his capacity to manage his emotions and his behaviour in these circumstances was "very limited". In her opinion, the defendant was impaired in his ability to make calm and rational choices in relation to the assault on Ms Donohue because of his Personality Disorder, which contributed causally to the offence. It is noted that it did not obscure his intent or impair his ability to appreciate the wrongfulness of his conduct. In relation to the assault on Mr Parker-Grace, however, the defendant's condition does not mitigate his moral culpability as his violence arose from anti-social tendencies.

Notwithstanding the difficulties arising from his personality disorder, Dr Wright identifies various positives such as his long-term past relationship and capacity for connection. He understands violence towards women is abhorrent, and experiences empathy for female victims. He understands his behaviour is problematic and has the capacity to reflect upon it. In speaking with Dr Wright, he expressed remorse and regret for having caused harm and distress to Ms Donohue. He was also remorseful for his past acts of family violence towards the end of their relationship. These factors have significance in terms of his prospects of reform.

To reduce his risk of future family violence, Dr Wright considers the defendant would benefit from long-term engagement in psychological intervention and education to assist him to manage his emotions and impulsivity, and to address his substance use.

Because of concerns about future risk, protection of the community remains a significant goal. A sentencing order requiring psychological intervention is appropriate.

In this case, added weight should be given to the sentencing goal of rehabilitation. He has recently, for the first time, disclosed childhood trauma, and is someone who should have the opportunity to address the effects of that trauma by engaging in psychological intervention. This represents a new chapter for Mr Jones and an opportunity to address factors that are central to his offending.

I take into account the defendant's plea of guilty, and both the time he has spent in custody on remand and the substantial number of days and half-days spent in lock-down, shown in a table provided for the period April 2024 to January 2025. The table is accepted as largely accurate by the State. I also have a copy of the prison record of these lockdowns. During this period, the defendant has spent the majority of his time in lock-down. For the month of April 2024, according to the prison record, there were 24 days affected by lockdowns; 17 in May; 19 in

June; 24 in July; 15 in August; 17 in September; 27 days in October; 25 in November; 26 in December; and 16 in January 2025. The information before me indicates that this trend of lockdowns has continued since January this year.

The consequence of lock-downs is that prisoners are isolated in their cells and rehabilitation programs and other pro-social activities are suspended on those days. I am told the reason for the lock-downs is due to staff shortages. I am not privy to the difficulties faced by the prison in this regard, but I feel compelled to point out the obvious benefit of rehabilitation programs and courses which require adequate staffing levels, such as enhancing the individual's prospects for a productive future and addressing the revolving door of crime and prison. Consequently, they are of direct benefit to the community.

I have taken into account the lock-downs experienced by the defendant and that his incarceration has been particularly onerous, as it has been for other prisoners and remandees, over the last 12 months.

General and specific deterrence remain important considerations. The defendant assaulted a vulnerable and defenceless victim simply because she expressed her right to do what she was perfectly entitled to do; to disagree and not go with him. His assault upon her was sustained, caused her pain and harm, and, given it involved multiple blows to the head, carried a risk of serious harm, which must be condemned. A heavy sentence is required but the goal of rehabilitation will be reflected in the sentence; a small portion will be suspended, and psychological intervention required. Parole will be allowed to provide a further incentive to engage with intervention and address underlying factors.

The aggravated burglary and assault upon Mr Parker-Grace must also be condemned. Mr Parker-Grace was assaulted when acting out of concern for his neighbour. He was entitled to be safe from intrusion in his home and the aggravated burglary is, in and of itself, a serious matter.

I record convictions. For the assault upon Ms Donohue, I impose 22 months' imprisonment backdated to 6 December 2023. For the aggravated burglary and assault upon Mr Parker-Grace, I impose a cumulative global sentence of 10 months' imprisonment. I suspend four months of the 10-month sentence on conditions:

You must not commit an offence punishable by imprisonment for a period of 18 months from your release. For that same period, you must submit to the supervision of a probation officer as required by the probation officer. You must report to community corrections at 75 Liverpool Street within one clear working day of release and must report as required.

You must undergo assessment and treatment for drug and alcohol dependency as directed by a probation officer. You must submit to medical, psychological, or psychiatric assessment or treatment as directed by a probation officer. You must comply with the EQUIPS Aggression Program if directed and any other family violence course or anger management counselling as directed by your probation officer. You must attend educational and vocational courses as directed by a probation officer.

The balance is 28 months' imprisonment backdated to 6 December 2023. I order that you be eligible to apply for parole once you have served 18 months.

Pursuant to s 13A of the *Family Violence Act*, I direct that count one, assault with respect to Jade Donohue, be recorded on the defendant's criminal record as a family violence offence.

27 June 2025

Pursuant to the *Sentencing Act* 1997, s 94 a correction was made to the sentence by Wood J to provide for a non-parole period with respect to each sentence of imprisonment imposed. In relation to the sentence of 22 months, a period of 15 months non-parole was imposed, and 3 months non-parole in relation to the 6-month term of imprisonment, a total of 18 months non-parole.