

STATE OF TASMANIA v STEVEN PAUL DUGGAN
COMMENTS ON PASSING SENTENCE

4 MARCH 2025
PORTER AJ

Steven Duggan, the defendant, pleaded guilty in the lower court to two counts of strangulation and appears in this Court for sentence. I am also dealing with his plea of guilty to an associated charge of assault. All charges arise out of the one incident on 21 June 2024. These are family violence offences; the complainant is Bethany Wall, with whom the defendant had been in an "on again/off again" significant relationship for about three years. They did not live together throughout the relationship but have a young child, aged nearly two. The prelude to the incident was that the two were in their respective homes talking on the telephone. An argument developed and the defendant became emotional. Due to his state, the complainant went to the defendant's home to check on his welfare. She arrived at about 11.30, and went in. Unfortunately, the two continued arguing. During the argument the defendant jumped up from a bed where he had been laying, grabbed the complainant around the throat with his hands, threw her on to the bed, got on top of her and strangled her by squeezing her throat with both hands. The complainant could not breath and struggled to get free by attempting to push him off with her legs. When he released his grip, they both fell to the floor. The defendant then took hold of the complainant's hair and repeatedly slammed her head into the floor before releasing her. The argument continued and when in the hallway, the defendant got on top of the complainant and again strangled her by putting his hands around her throat and squeezing. More force was used on this occasion. The complainant was not able to breath and felt as though she was about to lose consciousness. Eventually the defendant released his hold, and the complainant ran from the house and sought assistance from police. During the incident multiple threats were made to kill the complainant. The defendant's 13 year old son was in the house during the time but apparently did not witness any of the events. As a result of the attack, the complainant suffered bruising and pain around her neck which caused some difficulty in swallowing. After he was arrested, the defendant was interviewed but made no admissions as he had no recollection of events. He spent no time in custody. The complainant has not made a victim impact statement.

The defendant is now 36. He has a record of some dishonesty at an early age and some trafficking offending more recently but nothing of any relevance. He has two children, one with the complainant and his much older son from a former relationship. I was told of a very difficult and traumatic upbringing and one which would put him in the category of an offender in respect of whom some moderation of sentence is due for that reason alone. His parents separated when he was very young. He and his sister lived with their mother for a short time before moving to be with their father. He was abusive, and they fled back to their mother. However, the mother was a heavy drug user, and the defendant witnessed and experienced much violence when in her care. In one incident, she shot a partner of hers in the leg with a shotgun, necessitating the amputation of the limb. The defendant witnessed this and was required to clean up. Generally, he had to clean up the home and dispose of drug paraphernalia.

Ultimately the siblings were cared for by their grandfather but when the defendant was 15, he had to leave that home because of a conflict with his step-grandmother. From that age, the defendant was essentially homeless. He would stay at the homes of various friends until he felt his welcome was worn out. This notwithstanding he managed to complete year 10 at a district high school. He has consistently been employed in various industries, mostly connected with hospitality and building. He obtained a trade certificate in various disciplines. When he was 19, he met a woman with whom he had his son. She was unable to care for that child as an infant and at a young age the defendant became a single parent. He had no support from the

mother or any family support. He was able to hold casual employment and be a father to the child. In about 2018, the mother situation improved to the extent that he was happy to have her involved in the child's upbringing. She now has care of the that child on weekdays, with the defendant having him on weekends. Since late 2023 he has held casual employment as a scaffolder. There are limited opportunities now and his financial situation is poor. He is reliant on pension assistance and is finding it very difficult to maintain his rented accommodation.

In relation to the incident, the defendant and the complainant separated shortly beforehand. The relationship was a problematic one. He had formed a close bond with the complainant's two children from an earlier relationship. The separation apparently came about because of the complainant saying some unkind things about him to her daughter which upset him. He was having a difficult time processing the separation. On the particular evening, the defendant was at home. While cooking a meal he was engaged in a lengthy video call with two friends and drinking alcohol. He drank a great deal. He does not ordinarily drink alcohol. He has been told by his friends that during the call he was slurring his words badly and broke a bottle of whisky. He has no recollection other than being on the call, drinking and cooking a meal. When he woke up the next morning, he saw the broken bottle and chairs strewn about. He had not eaten what he cooked. Although apparently not seeing anything of what happened, his son was able to tell him the next morning of an argument with Ms Wall and her leaving. The defendant has no recollection at all of events and has fully accepted what the complainant says happened. I was told when interviewed that the defendant was visibly distraught. Afterwards he immediately sought help from a variety of sources. He contacted his GP in order to be referred for a mental health plan that has now been pursued. He contacted the Men's Referral Service which directed him to among other things, Relationships Australia, and an alcohol and drug information service which led to Anglicare alcohol and drug service. He was not accepted into any alcohol related program as it was not thought necessary by those in charge. He has attended individual and group counselling sessions which he has found beneficial. He has also consulted a psychologist, Catherine Lally, and I have a report from her dated 2 September 2024. Ms Lally notes the defendant reported that he abhorred violence against women, having witnessed this firsthand when his mother was beaten by partners. She notes his childhood and physical abuse and emotional depravation, rejection and abandonment, and homelessness. Ms Lally's impression is that the incident is uncharacteristic. She says there are no indications of patriarchal entitlement, disrespect for women, or more broadly, a tendency to assert himself through violence. Clinically, it makes sense that having an extensive history of trauma, the defendant can easily become triggered.

All unlawful violence is unacceptable, but family violence is a particular matter of great community concern. It is often difficult to detect and is an insidious problem. Strangulation was made a crime as such because it emerged that such an act is common within family violence situations. It is a serious form of violence, suggesting domination and control and involves a high degree of risk of injury or worse. In this case, there were two separate acts punctuated by a nasty assault by striking Ms Wall's head to the floor. Things are made worse by the presence of a young person in the house. As I have indicated, I take into account the defendant's background. In my view it is greatly in his favour that he showed immediate insight into his offending and sought help from several different providers. He has obtained some benefit from counselling and men's group sessions. Again to his credit, he accepted without question the complainant's version of events. He pleaded guilty at an early stage in the proceedings in the lower court. I view that plea as an indication of remorse and it does, of course, have utilitarian value. It provided a vindication for the complainant and saved her from having to give evidence. I am prepared to accept that this was uncharacteristic conduct.

Intoxication of course provides no excuse but, in this case, it does provide some explanation in that the defendant does not ordinarily drink, and obviously drank to great excess on this occasion.

Mr Duggan, I have set out the facts, your personal circumstances and the relevant considerations. I believe you understand just how serious this conduct was. I have already commented about it. It must have been a terrifying experience for Ms Wall, probably made worse at the time by your level of intoxication. I was told that you have found the process of being arrested interviewed and having to appear in this Court a difficult experience. Taking all matters into account a lengthy term of imprisonment is necessary to mark the seriousness of the offending but in your case, I am prepared to suspend the operation of the whole of the term on conditions, for the reasons I have explained. You are convicted of the offences and sentenced to 18 months imprisonment the operation of the whole of which is suspended on condition that you commit no offence punishable by imprisonment for a period of two years. You need to understand that this condition means precisely what it says; it is literally any offence punishable by imprisonment, of which there are many. If you do commit such an offence, you can be brought back to this Court and a judge must activate the sentence unless it is unjust. I record these offences as family violence offences. There is a family violence order in force until 21 June 2025 but I was not urged to make another, and that can take its course in the Magistrates Court.