

STATE OF TASMANIA v ANTHONY JOHN EMBREY
COMMENTS ON PASSING SENTENCE

1 AUGUST 2025
CUTHBERTSON J

Anthony John Embrey, you have been found guilty by a jury of three counts of assault. You were originally indicted on two counts of assault and two counts of strangulation. By those verdicts, the jury was satisfied beyond reasonable doubt that during the early hours of 25 February 2023, you assaulted the complainant outside your home and then later inside the bedroom of your home. The second count of assault was an alternative verdict returned in respect of one of the allegations of strangulation. The jury was not satisfied beyond reasonable doubt that the elements of the primary offence were made out. You were also charged with another count of strangulation but were found not guilty of that offence or the alternative charge of assault.

Given the jury's verdicts, they must have been satisfied beyond reasonable doubt that the complainant substantially gave a reliable account of the events of that night. I was impressed with the complainant's evidence. She gave a very clear and cogent account of the events of the evening. There were also neighbours who overheard some of the events of that night. Their evidence corroborated a number of aspects of the evidence given by the complainant on the trial. Given the verdicts, it is necessary, however, for me to make findings of fact. I make the following findings.

You commenced a relationship with the complainant in November 2016. Over the course of the relationship, you had a number of breakups. Your relationship was under strain as at the time of this offending. The complainant considered that you had broken up in January of 2023. This was against a background where you had both planned to go on a 4WD camping trip to the mainland to celebrate your 40th birthday. You had purchased a vehicle for that purpose. The complainant had decided she did not want to go. I accept her evidence that you were not happy about this.

As of 25 February 2023, the complainant did not have her own car. You were attending an event at a football club that evening and had asked the complainant to pick you up. She initially said no, but you later arranged to drop your Land Cruiser to her house so that she could pick you up. You called the complainant when you were ready to be picked up. The complainant went and got you. You had been drinking and appeared to the complainant to be drunk. As you were travelling to your house, the two of you argued. I am satisfied you questioned the complainant about what she had done socially the previous weekend. I note this was consistent with the evidence of your neighbours who overheard the argument which occurred when you returned home. The complainant also told you she was unhappy that you had dropped the car to her place when she was not home and that you had taken a selfie with her son at the football club.

I am satisfied you became enraged during that argument. You yelled at the complainant about going out the weekend before. You asked the complainant to pull over, which she did. You got out of the car and walked around in circles. The complainant got you to return to the car and continued driving towards your home. You began shouting again, then started punching the windscreen with sufficient force to cause it to shatter. It also caused an injury to your hand. The complainant was upset and crying and asked you to stop. In response, you waved your bloody hand in her face and said "Oh, I'm Tenille, oh, I'm scared" while she was driving.

On arrival at your house, I am satisfied the complainant got out of the car and went to leave. Rather than letting her go, you grabbed her to the back of her hoodie, told her she was not able to leave and pushed her towards the back deck of your house. You started arguing with the complainant again about going out the previous weekend and the trip you had planned. After the complainant confirmed she was not going away with you, you slapped your hands against both of her ears simultaneously with significant force and squeezed. This caused immediate pain to the complainant's ears, which were also ringing, and tightness to her head.

The complainant asked you to let her go, which you did. As she went to run, she fell over and you both ended up laying on the deck. I am satisfied that you then held the complainant down with your hands and knees, pinning her down. As she was struggling to get you off her, you punched her to the face. The first count of assault relates to you holding the complainant by her hoodie, striking her with force to the ears and squeezing and punching her in the face.

As to the second count of assault which was returned as the alternative verdict on the first count of strangulation, I am satisfied you did in fact apply force to the complainant's neck, pushing your thumbs into her throat. The complainant had scratches to her neck consistent with such an application of force. She described being unable to breathe properly as a consequence of the force you applied. The complainant's evidence in this regard is consistent with that of the neighbours who could hear the complainant gasping for breath and as if her voice was restricted. I am satisfied the application of force satisfied the physical elements of a charge of strangulation in that it restricted the complainant's breath. I do not accept your counsel's argument to the contrary, which principally relied on the absence of evidence of blood being located on the hoodie the complainant said she was wearing at the time, given that your hand had been freely bleeding as a consequence of you smashing the windscreen of your car. First, that piece of clothing was not seized by police or forensically examined so there is no way of knowing one way or the other whether there were traces of blood on it. Secondly, the complainant described washing her face after entering the house. By its verdict, however, the jury must not have been satisfied beyond reasonable doubt that by your application of force, you intended to strangle the complainant or that you foresaw that choking or strangling the complainant was a likely consequence of that application of force and that you engaged in that conduct regardless of that risk. You are to be sentenced on the basis that you did not possess the requisite state of mind to make out the crime of strangulation.

I am satisfied that you only ceased assaulting the complainant in this way after one of your neighbours yelled out "Get the fuck off her". The neighbours did not see any of what occurred, but what they heard was sufficient for both of them to form the view that the complainant was being hurt by you and caused them to attempt to intervene. You then pushed the complainant towards the back door and told her to "fucking get inside". Upon entering the house, the complainant stood at the kitchen sink, trying to catch her breath. You came in and again waved your bloody hand in her face and told her "get to fucking bed". The complainant first went to the bathroom. She put water on her face and you washed your hands before pushing her up the hallway to the bedroom.

Once you were in the bedroom I am satisfied that you pushed the complainant on the bed and continued to talk about the camping trip that you wanted to go on for your 40th birthday. The complainant repeated she was not going. You were on top of her, straddling her. You had the complainant's mobile phone in your hand, and hit her to the face with the phone. It is this conduct which constitutes the final count of assault.

Shortly after this, police attended. They had been called by your neighbours. You went to the front door. When police asked what was going on, you said "we was just fucking around". You called back to the complainant "are you alright?". The complainant took the opportunity then to leave the bedroom and pushed past you to the safety of the police. The interactions between you, the police and the complainant from the time of police arrival were captured on their body worn cameras. It is clear from that footage that the complainant is highly distressed. She has visible injuries. She is holding her throat. She told police she thought you were going to kill her. She also said she was too scared to say anything.

The complainant was photographed by police that night and again on the following day. Those photographs record a number of injuries. The complainant had black eyes, other bruising and abrasions to her face and ears and scratch marks on her neck. She reported having a stiff neck. She also attended a general practitioner the following day. She reported general facial pain, pain in both ears and reduced hearing. On examination, one of her eardrums was found to be perforated. The doctor also observed bruising to the complainant's eyes.

The complainant requested that her sister read her victim impact statement to the Court. In that statement she describes her life being shattered by your violence. She explains that the difficulties did not end when her injuries began to heal. She outlines that her physical health, her sense of safety, her financial independence and the life she had built was broken by your violence. She also described in graphic terms the ongoing fear she experiences, in large part a consequence of pressure applied by members of your family to drop the charges. I accept that you were not responsible for your family's conduct. Nevertheless, these are consequences directly related to your offending.

As counsel for the State submitted, family violence occurs in a context in which a number of lives are intertwined. The consequences of such violence rarely end when the assaults stop and victims often find themselves the subject of similar misguided pressure when such violence results in charging. It is one of the harms that the Court must be cognisant of, although I reiterate you are not personally responsible for the conduct of your family. Fortunately, police intervened and warned your family not to continue with their conduct and they desisted from that time. Against the background of your assaults and that other conduct, the complainant has been left with an impaired sense of safety. The complainant also outlines the financial implications of your violence and the end of your relationship. These are also commonly experienced issues in the context of family violence offending. It is clear to me that the complainant has had all aspects of her life affected by your conduct, including her ability to work, her financial security, her family relationships, her sense of safety and self-worth. There is no question from her victim impact statement that her experience of your violence was terrifying.

You have relevant prior convictions. In February 2021, you were convicted of twelve counts of breaching a police family violence order which protected the complainant. They consisted of breaches of area exclusion conditions and non-contact conditions. You were made the subject of a twelve month community correction order on those offences. In March 2022, you pleaded guilty to a charge of common assault. The complainant in that matter was your 12 year old daughter. You struck her with a belt causing bruising to her leg. You admitted this assault, and told police that you had struck your daughter two times as a disciplinary measure when she lied to you against a background of her snapchatting older males. You told police you believed it was reasonable punishment in the circumstances.

You are now 42 years old. You were initially remanded in custody before being released on bail on 23 August 2023. From 1 November 2023, a family violence order was made protecting the complainant with extensive orders including a requirement that you be electronically monitored. Those conditions have remained in place since that time. That order was extended on 28 March 2025 and is now in place indefinitely.

Prior to being remanded in custody, and after your release from custody, you have been employed as a fuel tanker driver. You have held that work for ten years. You work long hours in that job. You have two children from previous relationships. You maintain a relationship with your 20 year old son. You have not had contact with your daughter since you were charged with her assault. You are in a new relationship and live with your partner. You have been together for 18 months. Your partner has two children aged 17 and 13 who live in the household. You have purchased a block of land and hope to build on it. Counsel submitted that your current relationship is a stable one by contrast with the relationship you had with the complainant, which was described as toxic. I do not have any evidence to support the appropriateness of such a description. The evidence before me is that on the occasion of these assaults, you quickly resorted to anger and violence in quite unreasonable circumstances.

Counsel requested that I seek an assessment for your suitability for a home detention order. The Community Corrections Home Detention assessment report noted that you proposed to continue residing at the residence with your current partner and her children where you have lived for almost two years. While electronic monitoring equipment is found to be operational at that location, a review of the Safe At Home Information Management System reveals that you have documented family violence incidents between 2011 and 2023 relating to your ex-partners. Community Corrections noted, however, that there are no family violence incidents recorded between you and your current partner. Your partner attended the pre-sentence report interview and confirmed that there had been no such incidents between the two of you. Child Safety have advised Community Corrections that they have concerns for the safety and wellbeing of your partner's children due to your family violence behaviours. I do not understand that concern to have resulted in them taking any action. In any event, Community Corrections have found the nominated residence to be unsuitable for those reasons. I too hold concerns regarding your history of family violence and the potential risk home detention may cause to co-residents. In addition, you have advised of poor mental health due to the current bail conditions you are subject to, the nature of which would be similar to home detention requirements. I do not consider that a home detention order is appropriate in this case.

The report otherwise outlines that you had a good upbringing and a close relationship with your family. You reported no family violence, illicit substance use or problematic alcohol use during your upbringing. As I have noted, you work long hours in a job that requires you to travel around Tasmania with unpredictable hours and locations. You reported no financial issues. You reported not using illicit substances and not having problematic alcohol use, claiming on average to consume two alcoholic drinks per month. You told Community Corrections that you take responsibility for your actions although you also stated "what's happened has happened" and said you should have stayed at your friend's house or in your car rather than returning home. This suggests you are still failing to take full personal responsibility for your conduct. It was observed by your partner during the interview that your relationship with the complainant was "toxic", noting that you both knew how to "rub each other up the wrong way". You advised you that you and your current partner have not had any significant arguments. You have not undertaken any counselling or rehabilitation in relation to family violence behaviours. I requested that Community Corrections assess you for your risk of future family

violence. According to the ODARA risk assessment tool, you are assessed as being at a high risk of future family violence. Consequently, they recommend that consideration be given to a community-based supervision order to enable you to participate in family violence interventions. Community Corrections has assessed you as unsuitable to participate in community service.

I consider that the assaults you perpetrated against the complainant were extremely serious. Your conduct was entirely unjustified. The complainant was entitled to decline travelling with you interstate if that was her choice. As the evidence of your neighbours confirmed, there was an element of possessiveness and jealousy that formed part of the background of this offending as well. This Court all too frequently sees cases where perpetrators of family violence resort to anger and violence in the face of their partners exercising their independence. Your conduct in punching the windscreen in the car in the lead up to your offending is demonstrative of the level of anger you were exhibiting at the time of the offending. I do not accept your counsel's submission that I should regard that conduct as demonstrative of you exercising restraint. Far from it. To me, it reflects that you exercised no restraint at all that evening. You had no justifiable reason for acting with aggression that evening at all.

The evils of family violence have been stressed over and over again by this Court. The perpetration of violence against intimate partners involves a breach of trust. Family violence affects the whole community. It is notable that the complainant appears to be experiencing the ongoing effects of your violence, both emotionally and financially. As she described, her life unravelled as a consequence of your conduct. Sadly this is not uncommonly the case in the context of such offending.

Your offending deserves a period of imprisonment. That period of imprisonment will be backdated to take into account the 179 days you have already spent in custody. As you have already spent approximately six months in prison, I am satisfied it is appropriate in this case to suspend the balance of the sentence I impose in order to provide you an incentive to not commit such offences in the future.

Mr Embrey, I record convictions on the three counts of assault. You are sentenced to 12 months' imprisonment backdated to 3 February 2025. The balance of that sentence is suspended for three years on the following conditions:

- (i) that you do not commit another offence punishable by imprisonment during the period the order is in force;
- (ii) that you comply with the conditions of the family violence order made in the Hobart Magistrates Court on 28 March 2025 as varied from time to time; and
- (iii) that you are subject of the supervision of a probation officer for a period of 18 months.

There are a number of conditions which attach to the supervision condition I have imposed which are set out at s 42AO(2)(b)-(f) of the *Sentencing Act*. They will be provided to you in writing. They include a condition that you report to the office of Community Corrections in Hobart within three business days of this order. In addition, I impose a special condition that during the operational period of the order, you participate in family violence interventions as directed by a probation officer.

Additionally, I am satisfied that your offences were family violence offences within the meaning of the *Family Violence Act 2004*. I direct pursuant to s 13A of the *Family Violence Act* that these offences be recorded on your criminal record as family violence offences. In addition, I am satisfied that you have been convicted of at least three family violence offences

previously with at least three of those offences being committed on different days. Consequently, s 29A of the *Family Violence Act* is engaged. Having regard to the nature and circumstances of the offences you have just been convicted of, your prior matters and the results of the ODARA undertaken by Community Corrections as set out in their report, I consider that there is a risk you may commit further family violence offences. I declare you to be a serial family violence perpetrator pursuant to s 29A of the *Family Violence Act*. That declaration will remain in force for three years from today's date, and I direct that the declaration be recorded on your criminal record.