

BPJ, you were found guilty by a jury of two counts of assault. The victims were men named Aaron Cowen and Lucas Gleeson. You were acquitted of the more serious charge of wounding Mr Cowen but found guilty of assault as an alternative. Your co-accused, Sean Hudson, was found guilty of both assault and wounding. It is for me to find facts for sentencing purposes but my findings must be consistent with the verdicts. Fact adverse to you must be proved beyond reasonable doubt.

At trial it was not in issue that Mr Hudson wounded Aaron Cowen with a knife and assaulted Lucas Gleeson by either attempting or threatening to strike him with the knife. It follows from the verdict that the jury was satisfied that Mr Hudson either intended to wound Mr Cowen or realised that he may do so and acted regardless of the risk. Beyond that, the main issues at trial were whether Mr Hudson's acts were justified by self-defence or defence of another, and whether you were criminally responsible as a party to his crimes.

In the very early hours of the morning on Sunday 26 March 2023 you were in a unit in George Street. Tiarna Hudson and her father were also present along with two of Miss Hudson's female friends, one of whom was pregnant. At the time you were 17. Ms Hudson and her friends were 16. Mr Hudson was 48. The unit was on the upper level of a two storey building with a restaurant below. The entrance was from a laneway at the rear, but there was a window which looked out over George Street just north of the intersection with Paterson Street. Around 1.00 am a group of about seven young persons, which included Georgia Sawford, Mr Cowen and Mr Gleeson, walked up George Street on their way from the Commercial Hotel to a night club in the CBD. Ms Sawford and Ms Hudson were known to each other but were not friends. On the previous evening Ms Sawford had aggressively confronted one of her friends on the footpath in another part of the CBD. Ms Hudson intervened and a fight occurred. When Ms Sawford walked past the unit on this occasion she must have either known where Ms Hudson lived or seen her through the window and she began shouting at her. It was a continuation of her aggression from the night before and a shouting match then ensued across the street. You were there and knew what was happening. People in the unit with you joined in as did others from the group below. The substance of what Ms Sawford was saying was that she wanted to go on with the violence which had occurred the night before. It was suggested that other threats were shouted but no-one could say what these threats were other than that they included an invitation to those shouting from the unit to down to the street. Mr Cowen and Mr Gleeson were not party to any of the earlier conflict but I think it likely that one or both of them may have joined in the shouting. They were both affected by alcohol. I am satisfied that this predisposed them to participation in the exchange, but I am equally satisfied that neither of them intended any violence, and their shouts were alcohol induced taunts and bravado delivered from the safety of distance. Although there were gestures and words inviting those in the unit to come down to the street, there was no evidence at all that any of those persons, including Ms Sawford, threatened to come up to the unit or made any movement indicating an intention to do so. There was never any realistic prospect that any of them would even attempt to do so. There was no evidence that any of them knew where the entrance was. Even if they did know, to get to the unit they would have had to walk along Patterson Street to the laneway, negotiate a locked door off the laneway and another locked door at the entrance up the stairs. Despite invitations from defence counsel to admit that they were scared, none of the females in the unit gave any evidence that they perceived any risk while they were in the unit. To the contrary, Ms Hudson said that she was not worried.

Despite this, you and Mr Hudson left the unit together. Mr Hudson took a knife. You both walked down the stairs to the laneway, along the laneway to Paterson Street and then along Paterson Street for about 40 metres or so to the intersection with George Street. Mr Cowen and Mr Gleeson were on the opposite side of the road roughly adjacent to the intersection. By that time they were well past the window where the shouting had taken place and were walking away. They stopped for a short period but I find that was because they had become aware that you and Mr Hudson were approaching and shouting at them. You and Mr Hudson then crossed George Street before, without hesitation, confronting Mr Cowen and Mr Gleeson on the footpath. Witnesses gave versions of what they observed, but the incident was captured in relatively good detail on CCTV. As soon as Mr Hudson reached the place where Mr Gleeson and Mr Cowen were standing he struck the knife at Mr Gleeson. He did so only once. Mr Gleeson then jumped back and Mr Hudson then turned to Mr Cowen and swiped the knife at him. Mr Cowen backed off and put his hands up in front of his face as a defensive gesture as Mr Hudson swiped the knife again. There were at least two swipes with the knife and likely more. One of these swipes struck the palm of Mr Cowen's left hand. It caused a wound which extended across the palm for about three centimetres just below the base of his index and middle fingers. I find that while these critical events were occurring both Mr Gleeson and Mr Cowen were both attempting to back away. Even as they did so you and Mr Hudson both walked after them aggressively up the street and you did not desist until you had followed them for some distance. You eventually turned away, but even then there was further shouting backwards and forwards as you walked off which I am satisfied included you threatening to retrieve a shotgun and shoot someone with it.

The jury rejected Mr Hudson's claim that he acted in self-defence or defence of another. I am satisfied that when Mr Hudson left the unit he was not thinking of defending anyone. In the circumstances which I have outlined, for Mr Hudson to have suggested, as he did in his evidence, that he had a genuine belief that force was necessary to defend the people in the unit was fanciful. I am satisfied that both you and Mr Hudson left the unit intending a show of force to challenge or intimidate those who had taunted you from below. Perhaps there was some element of deterring future violence on the part of Ms Sawford or her associates, but I reject, as the jury must have, that Mr Cowen or Mr Gleeson did anything which may have led you or Mr Hudson to believe that force was necessary to defend yourselves. You and he were the aggressors. You both walked purposefully and aggressively to both men without pausing in circumstances in which it was obvious that by then they posed no threat to anyone. You and he created the situation which led to the violent conflict. Mr Hudson acted without pausing and you were right there with him. Mr Cowen and Mr Gleeson responded to Mr Hudson's acts, for the most part by backing away, confirmed by the nature of Mr Cowen's defensive injury. I reject Mr Hudson's evidence that he believed at any stage that force was necessary to defend himself or anyone else. You did not give evidence at the trial, and in a police interview you falsely denied any involvement at all. However, when all the evidence is taken into account, I also find that self-defence or defence of another was not your intention.

Having carefully considered the CCTV and oral evidence I am not satisfied beyond reasonable doubt that Mr Hudson intended to actually strike Mr Gleeson. If that is what is required to establish an attempt in the relevant sense then I am not satisfied of it. It was, however, an assault by threatening gesture. His evidence was that he did not intend to actually harm anyone, just scare them, but I am satisfied that his acts involved a high degree of recklessness. I find that Mr Hudson must have, and did, realise that there was a real risk that the knife, wielded as it was, would strike Mr Gleeson but acted regardless of the risk. He moved the knife quickly towards Mr Gleeson, quite close to him. It was good fortune that it did not actually contact him. Mr

Gleeson and another member of his group gave evidence that had he not swayed his head out of the way he would have been struck. I cannot say that this would have been so. I think that my conclusion is more consistent with my finding that Mr Hudson's primary motive was to threaten and intimidate. However Mr Cowen was struck. Mr Hudson's acts directed at him were obviously dangerous and the degree of recklessness which resulted in Mr Cowen's hand being wounded was high.

It was not alleged that you actually committed either of these crimes. However I am satisfied that you are criminally responsible for the assault of Mr Gleeson on all three possible alternative bases. I am satisfied beyond reasonable doubt that, as you approached Mr Cowen and Mr Gleeson, you knew that Mr Hudson had a knife. I accept the evidence of the witnesses that a knife was waved by someone out the window during the verbal exchange. You were there and participating and were likely to have been aware of it then. More significantly, Mr Hudson carried the knife from the unit and from the appearance of it and your proximity to him I find that you knew he had it. At least one other witness saw it from across the road. I am satisfied that you and Mr Hudson shared a common intention to at least threaten force against the persons you left the unit to confront, and that crystallised into a common intention to assault Mr Gleeson by threat with a knife because he was the first person you both reached. That actual threat was a probable consequence of your common intention because it was largely what was intended. In addition to that I am satisfied that you knew what Mr Hudson intended and it was your intention to assist and encourage him in that purpose and that he was encouraged by your active involvement.

As to your participation in the crime against Mr Cowen I am satisfied of the same matters but, consistent with the verdict, I find that you did not intend to aid or abet the infliction of actual harm. You are not to be sentenced on the basis that the infliction of actual harm was a probable consequence of your common unlawful purpose. You shared the intention to recklessly threaten Mr Cowen but not to actually injure him. Mr Cowen's hand was cut. It was treated the following morning by stitches and glue at the hospital. Mr Cowen made a victim impact statement. There is no medical evidence of any lasting physical impact although Mr Cowen says he remains troubled by it. His assertions of serious psychological impact are to be treated with the required circumspection but what he describes are just of the type of effects which are entirely possible whether or not they manifested in this case. I have no doubt this would have been a terrifying attack both for Mr Cowen and Mr Gleeson.

You are a young man. You were 17 at the time of these crimes and so the principles which apply to sentencing young offenders apply to you. The prospect of your rehabilitation assumes particular importance. Your parents separated when you were 10 and you lived with your mother. You left school after Grade 8 but since then you have held a number of positions of employment, for the last two years or so at the Cressy Meat Works where you are now a supervisor. You now live with a friend. Your only record for violence is for an assault committed in January 2022 when you were 16. You were not convicted but ordered to perform community service. You are not entitled to the mitigation a plea of guilty would have entailed. There has been little sign of any remorse. However, I am satisfied that you were led by Mr Hudson and you were unlikely to have acted as you did but for his presence. Although you were a willing accomplice you did not do any of the acts which constituted the crimes. I would have considered a suspended period of detention but the reality is that, with the passage of time, that is not a realistic sentencing option and any breach would result in adult imprisonment. That should be a last resort for a young offender and, as serious as your conduct was, I think that a sentence other than one of

imprisonment, suspended or otherwise, is appropriate. I have decided to proceed by way of a community corrections order but requiring a substantial number of hours of community service.

You are convicted on both counts on the indictment. I make a community corrections order for a period of 18 months from today. The core conditions of that order will be specified in the order you will be given and include that you report to a probation officer at the office of Community Corrections, 111 Cameron Street in Launceston on or before 5.00 pm on Monday 11 August 2025 and, while the order is in force, you must not commit an offence punishable by imprisonment, you must report to and comply with the directions of a probation officer, you must not leave Tasmania without permission and you must notify of any change of address. I impose a special condition that you must, within the operational period of the order, satisfactorily perform 112 hours of community service, as directed by a probation officer or a supervisor. If you breach any of those conditions you may be brought back to court and re-sentenced.