

STATE OF TASMANIA v TYRELL ANTHONY BAILEY
COMMENTS ON PASSING SENTENCE

31 JULY 2025
CUTHBERTSON J

Tyrell Anthony Bailey, you have been found guilty by a jury of assault, strangulation and unlawfully injuring property. By those verdicts, the jury was satisfied beyond reasonable doubt that during the early hours of 4 April 2023, you assaulted and strangled the complainant and damaged property at her home. Given the jury's verdicts, they must have been satisfied beyond reasonable doubt that the complainant gave a reliable account of the events of that night.

I was also impressed with the complainant's evidence. She made a number of concessions and did not embellish her evidence. It was clear she had drunk a large amount of alcohol over the course of the evening prior to the events giving rise to the charges against you, however, her account of the critical matters was compelling. I make the following findings.

You were in a relationship with the complainant for approximately seven months prior to the events of 3 and 4 April 2023. The relationship was good to begin with but that had changed by the time you committed these offences. I accept the complainant's evidence that you were controlling, and would become upset with her if she did not agree to do what you wanted her to do. I also accept her evidence that you did not like it when she went out or visited friends without you. There were occasions where you would yell and shout at her, and, as she described, "get in her face".

The complainant went to her friend's house to have a drink during the afternoon and evening of Monday, 3 April 2023. She drank three bottles of Moscato while there and was pretty drunk when she walked home at about 3.00am the following morning. She had not spoken to you before going out and did not speak to you while she was at her friend's house. When she returned home, you were sitting on her bed waiting for her. You became angry and demanded to know why you had not been invited and why she goes out drinking without you all the time.

While this exchange occurred, you were both sitting on the bed. You got off the bed, leaned over the complainant and lifted the bed up and down, causing the foot of the bed to break away from the rest of the bed frame. You were shouting and screaming at the complainant while doing this. You then picked the complainant up and threw her off the bed onto the floor. She fell into the lounge room cupboard before falling on the floor. Once she was on the floor, you punched her to the face.

The complainant gave evidence of two episodes of force being applied to her throat. They were separated by a very short space of time, with the first episode involving less force than the second. You were charged with one offence of strangulation. I find, consistent with the jury's verdict and the evidence of the complainant, that after punching the complainant to the face, you remained on top of her and then put both of your hands around her neck and squeezed. While this was happening, the complainant was trying to wriggle out from under you. You briefly stopped applying force to the complainant's neck. She got away from you, but you pushed her over again, got on top of her and resumed applying force to her neck. The force you used was greater this time and was sufficient to affect her breathing and her vision. The complainant describes seeing stars and that her vision was almost black. The complainant was struggling while this occurred. You then took your hands from around her neck, became upset, stated you were going to take a heap of pills and try to kill yourself. You left the unit, smashing the bottom glass panel of the rear sliding the door as you did so.

After a period of time, the complainant went and found you across the road sitting in the park. At some point during the course of the evening, the complainant also returned to her friend's house and made a 000 phone call at 5.11am. During the course of the phone call, she told police

that she was ringing about domestic violence and needed some help. She told police her partner was at her house, was with her dogs and had her phone. She asked for police to meet her back there. They counselled her against returning to her home, indicating they did not have any available units to send. The complainant sounded intoxicated during that call. When giving evidence, the complainant could not remember where the 000 phone call fitted in with the other events. It seems likely it occurred after you assaulted the complainant and potentially before she found you in the park. As to that, I accept the complainant's evidence you were upset when she found you, that you were crying, saying that you had enough and had nothing to live for. Those comments recounted by the complainant are consistent with the types of comments you made to police during your record of interview which was played during the course of the trial. It is evident from that interview that you had experienced emotional difficulties, issues you say the complainant had helped you with. The complainant took you back home. You both tidied the house, put the mattress on the floor and went to sleep.

I find you assaulted the complainant by picking her up off the bed, throwing her onto the floor, punching her to the face and pushing her over. These activities comprise the particulars of the assault charge. The particulars of the strangulation charge are obvious from the comments I have made so far.

The police attended the complainant's house at 11:00am the next day. You told the complainant not to answer the door. Later in the morning, the complainant's mother and sister turned up after trying without success to phone her during the course of the morning. You were both still in bed when they arrived. You got up, got dressed and left. Shortly after leaving, the complainant broke down crying. The complainant's mother and sister made arrangements to take the complainant home with them.

The complainant, her mother and her sister described smashed glass being throughout the unit. The damage caused either directly by you or as a result of pushing and throwing the complainant around the unit included the damage to the bed and a panel of glass in the back sliding door I have already described, together with dents and holes in the bedroom cupboard doors.

Your assault and strangulation of the complainant caused the following injuries:

- Two black eyes and swelling over the nasal bridge;
- Swelling, bruising and abrasions to the complainant's neck;
- An abrasion on her elbow which the complainant explained was a carpet burn from trying to get away from you when you were strangling her; and
- Multiple bruises to her upper legs.

She attended a general practitioner a few days later and injuries to her face and neck were recorded.

I have not been provided a victim impact statement in relation to this matter. It was, however, apparent to me that the complainant was highly distressed by your conduct, and understandably terrified during the course of the strangulation. Her mother and sister gave evidence of the complainant's highly distressed state when they attended her unit in the morning.

You have relevant prior convictions. In December 2021, you pleaded guilty to two counts of breach of a police family violence order, four counts of breach of interim family violence order, three counts of common assault and a charge of breach of bail. Those offences involved a former partner who I will refer to as CS. The allegations of common assault included grabbing CS to the arm, placing your arm on the back of her neck and pushing her, grabbing her by the

arms and grabbing her face and throwing a computer game controller at her and striking her to the head. You were sentenced to 14 weeks and one day in prison in respect of those offences. In April 2022 you pleaded guilty to three counts of breach of a police family violence order which related to CS by breaching area exclusion conditions and a curfew condition. You were sentenced to five weeks imprisonment in respect of those offences.

After you were charged with the current matters, you breached an electronic monitoring condition of a family violence order by failing to remain contactable by telephone. You have also breached the order concerning CS on a further occasion by being in her company. These matters are not prior convictions, but are relevant to the assessment of your risk of committing family violence offences in the future, a matter which I address later in these comments. In addition, you have prior convictions for offences against police which include elements of violence or threatening conduct. You have a number of offences of driving whilst a prescribed illicit drug was present in your oral fluid namely methylamphetamine, amphetamine and THC (three counts on prior convictions). In May 2024, you were sentenced in the Launceston Supreme Court to a total of 26 months' imprisonment for a dangerous driving committed on 14 December 2023 and associated offences, including the breach of family violence order by being in CS's company which I have already mentioned. The sentence was backdated to 14 December 2023. You have been in custody since that time. Eleven months of that sentence was suspended on condition that you submit to the supervision of a probation officer for a period of 18 months upon your release and commit no offence punishable by imprisonment for three years. In June 2024, you were also sentenced to a further seven days imprisonment which was wholly suspended for twelve months in respect to an animal cruelty charge.

In light of your prior family violence convictions, the State submits that s 29A of the *Family Violence Act 2004* is engaged.

You are 28 years old. You have twins with CS who are now 4 years old. You have been eligible for release from custody since 13 March 2025. You have been remanded in custody solely on these matters since that time. During your period in custody, your sister, with whom you shared a close relationship, passed away. You were not granted leave to attend the funeral. I am told, as a consequence, that this custodial episode has been an especially difficult period for you.

On release from custody, you intend to return to the George Town area where you were raised. You have good family support there, with both your grandparents and parents living there. You left school after finishing grade 10. You have held employment on occasions since leaving school. Your counsel tells me that you would like to work again and be in a position to support yourself without relying on Centrelink. You have an interest in hands-on and labour work.

In addition to your twins you have a nine year old son and a 13 year old daughter. They also live in George Town and you have a good relationship with them and their mother. Your relationship with the mother of the twins is more problematic. Child Safety Services became involved with your family shortly after their birth and they were removed from CS's care prior to being placed with her mother and grandmother. You previously had a good relationship with the twin's carers. I am told that it is your long-term goal and intention to work productively to ensure that you can have a good relationship with them in the same way you do with your older children.

In relation to your family violence history, counsel submits that the most recent breaches relate to electronic monitoring conditions rather than violent offending directed towards CS. The breaches of family violence orders and other family violence offending for which you were sentenced prior to committing these offences relate to a period when the twins had just been born and there was substantial stress within the relationship within that context. As to the State's

submission that I should consider making a declaration pursuant to s 29A of the *Family Violence Act*, your counsel submits that although you were in an intimate relationship with the complainant, she was not your spouse or partner at the relevant time.

There was some evidence given during the trial of the relationship more generally. The complainant lived in the unit in George Town on her own. At the time she was the only person nominated on the lease. She described the relationship developing with you over a course of time, commencing as a friendship and developing into an intimate relationship. You lived with your mother throughout the period of the relationship. It is apparent that you spent time at the complainant's house although it is difficult to be certain how often you did so, but I am satisfied that it was at least once or twice a week. It is apparent from the evidence at trial that a good deal of your property was stored at the complainant's unit. It is not suggested that you shared any finances together. I am satisfied, however, that your friends and family saw the two of you as being in a relationship. This does not mean that they were happy about the relationship, but that is not the test. In the course of your interview with police, you said the complainant had helped you through a tough period of time. You stated that you liked her a lot, describing her as "a fucking top chick". When asked if you were in a relationship, you stated "I wouldn't say in a relationship, but I don't know what she sees it as. She knows that I was, that I am emotionally attached to her because she has obviously helped me for a lot, but I will say, I would like to say yes, but just me I don't know what she views it". You agreed you hung out regularly and occasionally had sex. You told police that "it was more of a friendly level but a close connection as she does understand a lot and it helps me". You stated that you had been staying at her house "like maybe one or two nights off and on". You were unable to advise police how your family and friends regarded your relationship with CS.

I am satisfied that your offences constitute family violence offences. They constitute family violence as defined in s 7 of the *Family Violence Act* in that they constitute assaults committed by you against your spouse or partner and the damage caused by you to property owned by your spouse or partner. I am satisfied that the complainant was your spouse or partner within the meaning of the *Family Violence Act* and your relationship was a significant relationship within the meaning of the *Relationships Act 2003* for the following reasons:

- Your relationship had been on foot for approximately seven months at the time of these offences;
- Your relationship was sexual;
- You expressed a considerable emotional commitment to the complainant;
- I note you did not live together however you stayed at the complainant's property on a regular basis and as the facts disclose, you were happy to let yourself into the house even when she was not present; and
- You stored your own property at the complainant's house.

I note your comments during your interview with police as to your views of the complainant's intoxication. I also take into account what I frankly consider was your jealousy towards and possessiveness of the complainant. It seems that these matters in combination resulted in you becoming enraged and acting as you did. This all suggests that you considered your relationship with the complainant was significant enough to demand certain conduct of her.

You have previously been convicted of at least three family violence offences committed on at least on three different dates. I accept a number of them concern breaches of family violence orders of various types in circumstances where it appears that CS continued to engage in contact with you despite those orders. There are, however, three separate allegations of violence towards CS involved, albeit not of the same level of seriousness as these charges.

What this history discloses is that you are, in my view, someone who is a risk of perpetrating family violence offences in the future. I will make a declaration pursuant to s 29A.

I regard your offending as extremely serious. You violently assaulted the complainant, including by punching her to the face. You strangled the complainant, applying sufficient force to affect her breathing and vision. She had visible injuries as a consequence of your conduct. The infliction of harm of this kind on an intimate partner is to be deprecated in the strongest terms. The risks of harm by strangling a person are well understood. A person can be rendered unconscious or killed in very short space of time. The experience of struggling or feeling unable to breath is one that induces readily understandable trauma to victims. As a society, it is well recognised that violence of this type has significant consequences for victims. That was the case here. Not only did you cause the complainant injury, but your conduct resulted in her leaving the home she was entitled to feel safe in on a permanent basis. She is fortunate she had family who were able to assist her to do so.

In light of these matters and your history of offending against other intimate partners, considerations of general and specific deterrence and denunciation are important in this sentencing process. You are not entitled to the mitigatory benefit of a plea of guilty. I take into account the period of time you have already spent in custody on this matter, together with the period of imprisonment you have already served. I consider, however, that your offending warrants the imposition of a period of imprisonment which will be backdated to 14 March 2025. I will suspend the execution of part of that sentence to provide you further incentive to rehabilitate.

Mr Bailey, you are convicted of all counts on the indictment. You are sentenced to 15 months' imprisonment backdated to 14 March 2025. The execution of six months of that sentence will be suspended for 3 years on condition that you do not commit another offence punishable by imprisonment and that, for a period of 18 months upon your release from custody, you are subject to the supervision of a probation officer. The order for supervision by a probation officer is subject to the core conditions of a community correction order which are set out at s 42AO(b) to (f) of the *Sentencing Act*. They will be provided to you in writing. They include that you must report to a probation officer at the office of 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 of any change of address. In addition to the core conditions, the order will also include the following special conditions that you must, during the 18 month operational period of the supervision order:

- 1 submit to the supervision of a Community Corrections officer as required by that officer;
- 2 attend educational and other programs, undergo assessment and treatment for alcohol or drug dependency, submit to testing for alcohol or drug use and submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer;
- 3 attend and complete the EQUIPS addiction program as directed by a probation officer; and
- 4 attend and complete the Family Violence Offender Intervention Program (or similar) as directed by a probation officer.

These conditions reflect the conditions imposed upon you when you were sentenced in May last year. In addition, it is my intention that you be provided an opportunity to engage in a community based program specific to family violence offending.

Pursuant to s 13A of the *Family Violence Act* I direct that these offences be recorded as family violence offences on your criminal record. I also declare pursuant to s 29A of the *Family Violence Act* that you are a serial family violence offender. The latter declaration will remain

in force for three years from the date of your release from custody. I order that the declaration also be recorded on your criminal record.

Finally, pursuant to s 68(1) of the *Sentencing Act*, I make a compensation order in favour of [the complainant] in an amount to be assessed.

Pursuant to s 36 of the *Family Violence Act*, I make a family violence order for a period of two years from 31 July 2025 in the following terms:

- 1 That you not stalk [the complainant];
- 2 You are not to directly or indirectly threaten, abuse or assault [the complainant];
- 3 You are not to be within 300 metres of or contact [the complainant] directly or indirectly including by any form of electronic or other communication;
- 4 You are not to enter the premises of [address specified] where [the complainant] is presently living or any other place where the said person may be staying or living from time to time;
- 5 You are not to go within 300 metres of the boundary of the premises at [address specified] or the boundary of any premises where the said [the complainant] may be staying or living from time to time;
- 6 You are not to damage the premises at [address specified] or any furniture, household effects or other items which are there;
- 7 You are not to damage any personal or other property owned or possessed by [the complainant];
- 8 You are to immediately surrender any firearm, part of any firearm or any ammunition and any firearm licence or permit in your possession to a police station or a police officer;
- 9 You are not to apply for any licence or permit under the *Firearms Act* 1996;
- 10 You are to forfeit and immediately surrender any licence or permit held pursuant to the *Firearms Act* 1996 in your possession to a police station or a police officer. During the period of this order, you must not possess any firearm, part of a firearm or ammunition;
- 11 You must refrain from engaging in any other conduct specified in the order that constitutes or that may constitute family violence.