

THE STATE OF TASMANIA v HARLEY STEPHEN BUCKLEY
COMMENTS ON PASSING SENTENCE

8 JULY 2025
SHANAHAN CJ

You have pleaded guilty to one count of assault contrary to s 184 of the *Criminal Code* that, at Herdsmans Cove on or about 12 January 2024, you unlawfully assaulted Breeana-Lee May Jones by holding her by the wrists and arms and squeezing her neck with both hands.

You and the complainant Breeana-Lee Jones were in a relationship in January of 2024. You had then lived together since December of 2022 but had been in an on again off again relationship over a period of five years.

On 12 January 2024, you were both at home at [address specified] in Herdsmans Cove when an argument started between you whilst in bed together.

You got up to go to the bathroom. The complainant told you not to return to bed, but you did. You and the complainant were lying back-to-back. She swung her hand behind her to smack you in the area of his hip, making contact. You then lost it. You yelled at the complainant for attacking you and got into a kneeling position in front of her. You lent over the complainant using your hands to hold her hands and arms across her chest pushing her to the wrists. You then placed both hands around the complainant's throat and squeezed hard. The complainant found it difficult to breathe and talk but did not lose consciousness.

The complainant attempted to yell at you but could not. You continued to squeeze the complainant's throat for a period of approximately ten seconds. The complainant managed to break free and coughed up phlegm. You rubbed her back and checked her breathing. The complainant asked you for her phone which you threw to the coffee table in the bedroom. The complainant went to the lounge room and sat in a chair. You both continued to argue. You then approached the complainant but she pushed you away.

You stopped and walked to the bedroom and shut the door. The complainant told you to get out and leave. The complainant called triple zero, reporting that you had attempted to strangle her. As she did, you left the house. Police attended in response to the triple zero call and located you walking near the Jordan River bridge. You were taken into custody. You told police you had had an altercation with your partner. At that time you appeared upset and told police you knew that the complainant had called the police. Police attended [address specified] and spoke with the complainant who was upset and distressed.

The complainant provided an account of the incident at the scene on body-worn camera footage. You later participated in a video recorded interview. Having been cautioned your account was that you woke and saw that your phone was out of charge. You cracked it at yourself and swore. The complainant thought you was angry at her and she had a go at you. She was yelling and you did not want to engage with her. You went to the toilet and came back and then you said you were punched or elbowed or kicked to the back. You could not see because you had your back to the complainant. You then said that you blacked out after this.

It was not until you realised what you were doing and thought, "Shit, what am I actually doing," that you let the complainant go. You tried to hold her and calm her down. She was scared and you do not blame her for calling police. You were grabbing her to get her to calm down, but once you realised that you had grabbed her around the throat, you let go and tried to grab her around the body. You realised that you were holding her fairly tight but you did not realise that until you let her go. You started to hold her with a four out of ten force but when you let her go, the force was between "seven and eight or more out of ten". Obviously you were gripping the complainant with some considerable force.

By the time you released the complainant she was half lying down, half sitting up, slouched over the pillows on the bed. You agreed that she was probably struggling to breathe a little bit without you noticing. When you realised, you let go. You say you do not recall putting your hands over her chest or holding her down but that is not accepted by the State. You wanted her to calm down and talk to you, and that you did not want to hurt her.

You say that you did not see any marks on her neck when you let go, but she did have a bit of a cough, and you sat her up and were trying to rub her back. You did not see any injuries but she also would not let you near her. You tried to grab her phone so that she could not ring the police. You walked out the door hoping things would calm down. When you were younger you had anger issues. You say that you used to get angry to the point that you would black out, and that you would come to and be doing something completely different, and that morning you blacked out and went into rage mode.

At the conclusion of the interview, you were police bailed and issued with a police family violence order.

I have been provided with a record of prior convictions. There is no relevant recent offending, albeit there is an aged youth matter for common assault in 2011.

I also have the victim impact statement of Breeana-Lee Jones. Ms Jones observes that the incident was "the straw that broke the camel's back" for her. Her resilience has suffered and for the first time in her life she is "unable to sleep most nights" and she is now taking medication.

This was an incident that occurred in a family violence context and occurred in breach of the trust placed in you by the complainant and your relationship with her. This Court has long recognised the dangers of a grab to the neck, or any application of force to the neck in that it has the capacity to prevent breath and blood flow and ultimately cause serious injury or death. I find that this is a family violence offence, an offence to which s 13A of the *Family Violence Act 2004* applies, and direct that the offence be recorded on your criminal record as a family violence offence.

Upon the submission of defence counsel at the sentencing hearing I ordered an extended pre-sentence report to be prepared by Community Corrections to assess you for your suitability for supervision in the community as well as community service. It was submitted that such a report would also assess you for suitability for programs of relevance including the EQUIPS Addiction Program.

I now have that report dated 22 May 2025.

The report confirms a background of reciprocal family violence orders between you and the complainant. You have a 5 year old son with whom you have visitation entitlements, albeit with a third party present. You have apparently acknowledged a lack of stress management and drug use as contributing to your conduct.

The report notes that you have been accommodated by Bethlehem House, a short term crisis accommodation facility with strict rules prohibiting illicit drugs and alcohol. I have two letters from Bethlehem House dated 17 March, and 29 May, 2025.

The later letter confirms that you are now residing at Bethlehem House subject to urine analysis and not breaking any rules. You are required to attend case management meetings which you

do without prompting. I am advised that you have "a high level of self-awareness and use ... [your] ... initiative to willingly seek out support, guidance advice and gritty conversations to address ... [your] health and well-being. I am also advised that you are continuing with external supports, particularly counselling provided by the Bridge Program, and that you are "also linked with Access Mental Health".

Your education may have included completing grade eight, and your education was interrupted by sexual abuse. You have, as a result, been diagnosed with Post Traumatic Stress Disorder with symptoms of agoraphobia, anxiety and depression. You report leaving school at 15 following the trauma of being assaulted and entering the workforce. You had a strong work history up until about 18 months ago.

You have used alcohol since the age of thirteen. You started using illicit drugs in your late teens. You have reported drug use as a coping mechanism to deal with life's stressors including difficult times in your relationships and when you needed energy to complete daily tasks.

You have expressed regret for your behaviour, and want a chance to prove that the offences were out of character for you. You again reported blacking out during your offending and that after the offending you began to self-harm and have suicidal thoughts from feelings of shame at your actions.

You are not previously known to Community Corrections. You have expressed a willingness to participate in any program that the Court deems appropriate. You have been assessed as suitable for the imposition of a community corrections order with community service. You have been assessed as requiring a high level of intervention from Community Corrections.

It is to be clearly understood that men who commit acts of violence against women can rightly expect limited opportunities for bail and harsh prison sentences. In this case the Victim Impact Statement speaks for itself.

You have pleaded guilty to his offending. I note that you have has not pleaded guilty to the graver crime of strangulation but to a somewhat less serious charge of assault. Having regard to all of the circumstances, including the nature of the assault, your overall history and your steps to rehabilitate yourself, it is my view that an immediate sentence of imprisonment is not necessary.

I impose a single sentence of 6 months' imprisonment, which sentence I wholly suspend on condition that you commit no offence punishable by imprisonment for a period of 12 months. In addition, I make a community correction order with an operational period of 12 months and a condition that within that period he carry out 50 hours of community service. I note that you have been recommended for the Family Violence Offender Intervention Program and the EQUIPS Addiction program. I make the following special conditions to apply to the community correction order:

- (1) If directed by a probation officer, you must attend, participate and complete the Family Violence Offender Intervention Program as directed as directed, and
- (2) If directed by a probation officer, you must attend, participate and complete the EQUIPS Addiction program as directed.

As already noted the charge of assault on the indictment is be recorded as a family violence offence pursuant to s 13A of the *Family Violence Act*.