

The defendant JAF, who was aged 27 at the time of the offending, has pleaded guilty to one count of indecent assault contrary to s 127(1) of the Criminal Code.

The complainant, then also aged 27, was the defendant's partner and the mother of the couple's two children.

The defendant had set up a video camera in the wardrobe of their bedroom and shortly after 3.30 am on 23 June 2023 he filmed the complainant asleep in their bed for almost an hour and a half. He filmed himself moving the bed covers away, holding his penis near the complainant's body and pushing it in the direction of her backside, touching her backside and genitals and placing his head and face on and near them and moving her legs around and holding his penis close to her face and masturbating and touching himself on the anus.

The complainant found the video on the defendant's phone and the matter was reported to police. The defendant told police that the allegation was rubbish and that "it was a stupid Only Fans video"

The defendant completed year 11 at Rosny College and then went to work. He has a good working history, particularly in labouring roles and the automotive industry.

He started using cannabis for sleep when he was in his 20s and then in around April 2023, he began using methylamphetamine. Initially he was only using it casually and with friends, but he now recognises there is no such thing as social use when it comes to methylamphetamine.

His drug use very quickly spiralled out of control and became a life altering addiction. His counsel informs me that it had an absolutely devastating impact on his life and turned him into someone, who in his own words, he could hardly recognise. He also recognises that it had a devastating impact on those around him, particularly his ex-partner of course, his children, and his family. He has not had any contact with his children since the time of separation after this offending. The defendant and the complainant had been best friends all through school and commenced a relationship at the start of high school.

I am informed that he has been sober since coming into custody on other summary offences in January 2024. I note that as indicated earlier, Mr F has not committed any like offences in the past.

I have had a victim impact statement read to me. The offending has had profound and lasting psychological and emotional effects on the complainant.

This is an offence that I must recorded as a family violence offence pursuant to s 13(1) of the *Family Violence Act* and I so direct,

On the basis of the material before me I am affirmatively satisfied that it is not necessary for me to make an order under the *Community Protection Offender Reporting Act* 2005.

This offending was a very serious breach of trust and should attract a sentence that denounces and deters such conduct as well as vindicating the victim.

The defendant is convicted and is sentenced to a period of 12 months home detention.

The home detention order will contain all of the statutory core conditions set out in s 42AD(1) of the *Sentencing Act* 1997 and with respect to s 42AD(1)(g) and (h) of the Act , it is ordered that the following conditions be added:

- you must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device
- during the period that you are required to submit to electronic monitoring:
 - a) you must not remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.
 - b) you must not allow anyone else to remove, tamper with, damage, disable or interfere with the proper functioning of any electronic device or equipment used for the purpose of electronic monitoring.
 - c) you must comply with all reasonable and lawful directions given to you in relation to the electronic monitoring, including in relation to the installation, attachment or operation of a device, or a system, used for the purposes of electronic monitoring by:
 - i a police officer;
 - ii a probation officer or prescribed officer; or
 - iii another person whose functions involve the installation or operation of a device, or a system, used for the purposes of electronic monitoring

The following special conditions are added to the order:

- you must, during the operational period of the order, remain at ****address**** all times except during the times of 5.30am to 6:30pm Monday to Friday, unless approved by a probation officer.
- immediately upon your release from Court, you must attend the Community Corrections office at Hobart for induction onto this order.
- you must, during the operational period of the order, maintain in operating condition an active mobile phone service, provide the contact details to Community Corrections and be accessible for contact through this device at all times
- you must submit to the supervision of a Community Corrections officer as required by that officer
- you must not, during the operational period of the order, take any illicit or prohibited substances. Illicit and prohibited substances include
 - a any controlled drug as defined by the *Misuse of Drugs Act* 2001
 - b any medication containing an Opiate, Benzodiazepine, Bupropion, Hydrochloride or Pseudoephedrine, unless you provide written evidence from your medical professional that you have been prescribed the relevant medication.
- you must not, during the operational period of the order, consume alcohol, and you must, if directed to do so by a police officer or Community Corrections officer, submit to a breath test, urine test, or other test, for the presence of alcohol.

- you must engage with the Assessment and Interventions Team for assessment and if deemed suitable, attend and complete recommended interventions.