

Joshua Smith, you were found guilty by a jury of strangulation. It is my duty to determine the factual basis on which you are sentenced but my findings must be consistent with the verdict. Facts adverse to you must be proved by the prosecution to my satisfaction beyond reasonable doubt.

The crime was committed on 26 June 2024 against Holli Morley. You were then aged 40. You had been in a relationship with Ms Morley for a few months although it was not a family relationship in the strict legal sense. She was 24. Very unfortunately, she died on 21 January 2025. The cause of her death was not revealed by the evidence but there is no suggestion it is related in any way to the events which were the subject of the trial. The evidence of the events of 26 June 2024 was almost entirely in the form of audio visual recordings from CCTV, police body worn cameras and your interview with the police. Ms Morley was, at the time, in a state of emotional turmoil. She was in poor physical health. She had been living with you but some conflict or incompatibility between her and the owner of your home led to you both being asked to leave. The result was that neither of you had stable housing. She had returned from a short trip interstate on 25 June 2026 and you and she went to a hotel apartment which her father had booked and paid for. The reservation was for five days but, again, some conflict between her and the hotel staff meant that she was asked to leave. The police were called and met you in the street outside. Throughout that process you were calm and respectful and helped the police retrieve Ms Morley's belongings. These circumstances led Ms Morley to an even more heightened emotional state. On images recorded on a police body worn camera she was crying and distressed and exhibiting a sense of grievance.

After leaving the hotel and the police had gone, you and she withdrew to an open public area inside a city block in the central business district of Launceston. The area was covered by CCTV and it captured clear images of what followed. You were seated together on a bench seat. Other members of the public were coming and going. There is no audio but Ms Morley was obviously still agitated, getting up and down, pacing and having a lot to say. She drew the attention of others. One person approached apparently to check on her welfare. After a little while, when no one else was nearby, she stood and struck her forehead twice against the metal post supporting the roof over the bench seat. She sat again but events then escalated. You became agitated yourself. From a standing position above her you put your forehead close to hers. You then struck your own forehead against a different metal support. As you did that she stood and turned away from you. You grabbed the back of her jacket, pulled her back, put your right arm around her neck from behind, locked that arm tightly in position with your other hand and applied pressure. It was what is commonly referred to as a choke hold and it had precisely that effect. Over about 10 seconds, she resisted but progressively lapsed into unconsciousness. Her head and body slumped as you held her. You maintained your hold but began to lower her to the ground. As you did so, two male bystanders saw what was happening, ran towards you and grabbed you. As a result of their intervention you released your grip. Ms Morley was already partly prone, but she rolled the rest of the way to the ground from a height I would estimate to have been about half a metre, striking the back of her head on the concrete as she did so. The two men pushed you away and held you on the ground. After about 10 seconds Ms Morley regained consciousness and stood up.

One issue at trial was whether you did in fact choke or strangle her. That issue is conclusively determined by the CCTV which demonstrates her loss of consciousness beyond any doubt. As

she lay on the ground she was clearly unconscious. A couple of involuntary twitches may be observed. Later that day she told the police that she had feigned unconsciousness but that was an obvious falsehood. The other issue was whether the force you applied was justified by self-defence or to defend Ms Morley against further attempts at self-harm. Both arguments were advanced although they were inconsistent. You told the police that she had tried to punch you, but again the CCTV demonstrates the falsity of that statement beyond any doubt. Although the inference is open from the CCTV that she might have stood up intending to hit her head again, there was no other evidence that you believed that force was necessary to stop her from doing so and find that you did not have any belief that force was necessary for that reason. I am satisfied that you acted because you spontaneously lost your composure and became angry.

Strangulation in its various forms is dangerous because it restricts oxygen and blood flow from the brain. I think it is likely that you did not intend to cause Ms Morley serious harm. However there was a risk that you may have done so because the type of the force you applied can relatively quickly lead to death or brain injury. It is impossible to say what would have happened if the bystanders had not intervened. As events occurred, Ms Morley did not suffer any serious or lasting physical injury or psychological impact. She quickly regained consciousness, most likely because the flow of blood to her brain resumed. She got to her feet without apparent difficulty and was alert enough to come to your defence. After others dispersed you walked away together and left the area. Having discovered what had happened to Ms Morley, the police found her later that day. She did not co-operate with them and attempted to defend you. She deflected their legitimate concern and told lies to attempt to minimise your responsibility.

You are now 42. You have no prior relevant convictions. You are in a relationship but you have no children. You were educated to grade 10. You have held employment during your adult life but were not working at the time of these events. You wish to return to employment when you are able to do so. You are not entitled to the mitigation a plea of guilty would have attracted.

In some respects at least I would distinguish this case from many examples of violence within relationships which come before the courts. There is no evidence or suggestion of a pattern of violence or abusive or controlling behaviour towards Ms Morley. It was not violence which was committed covertly or within a family home and was not family violence in the statutory sense. The events and circumstances of and leading up to that day had been stressful for you despite which you apparently remained patient and concerned for Ms Morley. That is of course no excuse. When you did act, it was an attack which occurred in public and was no doubt highly confronting and disturbing for those who witnessed it, especially the two men who were courageous enough to intervene. I accept that you immediately submitted to them and did not attempt to resist. In fact, you congratulated them for doing the right thing. My assessment is that the risk you pose to the community of future violence is low. However there is a need to make clear to you and others what the likely punishment will be for such violence in the hope that it may prevent it from happening.

You were taken into custody after the verdict on 17 February 2026. You had previously spent 89 days in custody. For a crime of this nature I think that imprisonment is the appropriate sentence. However, to facilitate your rehabilitation and as an added incentive to not re-offend I will allow the opportunity to avoid having to serve all of the term by suspending part.

Joshua Smith, you are convicted on the indictment. You are sentenced to imprisonment for 12 months from 20 November 2025. I suspend seven months of that term for 12 months from your release. It is a condition of that order that while it is in force you commit no offence punishable

by imprisonment. If you breach that condition then you will be required to serve the suspended part of the term unless that is unjust.