

STATE OF TASMANIA v JAI NOEL LAVELL
COMMENTS ON PASSING SENTENCE

20 MAY 2026
JAGO J

Jai Lavell, a jury found you guilty of three counts of *Criminal Code* assault and one count of unlawfully injuring property. Additionally, you pleaded guilty before trial to a further count of unlawfully injuring property.

It is, of course, my responsibility to make findings of fact consistent with the jury's verdicts for sentencing purposes, but in this case, I am of the view, given the combination of jury verdicts returned, that the facts substantially follow from those verdicts. To convict, the jury must have largely accepted the evidence of both complainants, Marinda Louise Nibbs, your sister, and Matthew George Barry, your sister's partner. Equally, the jury must have rejected the account you gave in evidence. The account you gave in evidence was so far removed from the accounts given by Ms Nibbs and Mr Barry, that I reject the suggestion that the jury may have accepted that you believed there was a need to act in self-defence, but that your response was excessive. I am satisfied having heard the evidence of Ms Nibbs and Mr Barry, that the incident unfolded largely as they described. I sentence on the basis that none of the blows you inflicted were delivered with any honestly held belief that you needed to defend yourself. Rather, I am satisfied you delivered the blows because you were angry and wanted to make a point to your sister who had attended your property uninvited.

All the crimes arose from an incident which occurred on 7 August 2022. On that day, Mr Barry had attended your residence to return some items that you had previously lent to your mother. His attendance at your home was largely uneventful, save that for reasons which are not clear, before he departed, you said something to him about your sister owing you money. For quite some time, prior to August 2022, there had been considerable antipathy between you and your sister.

Mr Barry reported the comment to Ms Nibbs. That prompted Ms Nibbs to attend your residence. I am satisfied she did so, knowing she was not welcome there. When she arrived, you were not at home, but your then partner, Galeesha Kenny, was. I am satisfied there was a conversation between Ms Nibbs and Galeesha Kenny in which Ms Nibbs made some unnecessary and unpleasant comments. That prompted Ms Kenny to telephone you, in an upset state, and ask you to come home.

Before your arrival at the residence, Mr Barry had also arrived at the residence. I am satisfied he went there, because he had been made aware that Ms Nibbs had gone to your unit, and he anticipated there might be tension given the relationship between you and your sister.

I am satisfied that by the time you returned home; you were worked up and agitated because of the upset Ms Kenny had displayed to you during the phone call. When you arrived at the unit, you saw Ms Nibbs' vehicle and Mr Barry's vehicle parked in the driveway, which prevented your entry. You parked your car in the adjacent unit's car park and got out, complaining in a blunt manner that you could not park in your driveway.

I am satisfied at that point, Mr Barry got into his vehicle and reversed it out of the driveway and parked it in the cul-de-sac. Meanwhile, you and Ms Nibbs came together in the driveway, and exchanged some brief words, before you punched her once to the right side of the jaw. It was a hard punch, and it stunned Ms Nibbs. You then grabbed Ms Nibbs by the throat and pushed her backwards, towards the fence. Once you had her pinned against the fence, you used

your hand to squeeze her neck. Again, you must have applied some considerable force because Ms Nibbs described struggling for breath, gagging and her vision "going black".

Around this time, Mr Barry had got out of his car and saw what you were doing to Ms Nibbs. He ran over and tried to intervene. He tried to pull you off Ms Nibbs. You turned on him and assaulted him by punching him several times to the face and body.

Having disposed of Mr Barry, you returned your attention to Ms Nibbs. Whilst she was pinned against the fence, you hit her again to the right side of the jaw. It was a significant blow, and it caused her to fall to the ground unconscious. I am not satisfied beyond reasonable doubt that whilst Ms Nibbs was on the ground you kicked her or placed your foot on her head.

Around this time, Mr Barry again tried to intervene and tried to get Ms Nibbs back to her feet. You pulled him away by putting your arm around his neck and dragging him backwards.

Eventually, Ms Nibbs was able to make her way to her motor vehicle, which was still in the driveway. There is inconsistency in the evidence as to how she got to her motor vehicle. It is not necessary that I resolve that inconsistency. Once she got into her motor vehicle, she tried to reverse out of the driveway, but because she was no doubt still dazed, she struck the steps of unit 1 as she tried to leave. You jumped on the bonnet of her vehicle and used your foot to stomp on the windscreen, causing it to break. Eventually, Ms Nibbs was able to manoeuvre free from the steps and reverse out of the driveway.

Meanwhile, Mr Barry had returned to his motor vehicle. At this point you were still in a heightened emotional state. You approached his vehicle and smashed the window in his ute. You then leant through and punched him in the head.

I sentence on the basis that your violence was entirely unprovoked in a physical sense. I am satisfied neither Ms Nibbs nor Mr Barry showed any physicality towards you before you punched Ms Nibbs. I accept your sister had come to your residence in circumstances where she was not welcome, but that in no way justified your response. You became angry, lost control and inflicted the violence as described by Ms Nibbs and Mr Barry. These were serious crimes. They involved a high level of violence, and given your level of agitation, I am satisfied a considerable loss of control on your part. You punched your sister to the jaw area on two occasions, and you also applied pressure to her neck to the point that her breathing was affected and her vision impaired. Whenever pressure is applied to the throat to the extent that breathing is affected, it is very easy for serious, often unexpected and unintended, injury to be caused. It is an inherently dangerous thing to do, particularly when a person is as angry as you were.

Both Ms Nibbs and Mr Barry have been badly affected by your crimes. Ms Nibbs was very scared for her safety during the attack. She continued to experience pain in her jaw for some time after the incident. She was embarrassed by the extent of bruising. She has experienced disturbed sleep and constant anxiety since the incident. She is confused and upset that she was attacked in such a violent manner by her own brother. It has created difficulties within the family for her. She found giving evidence at the trial a particularly difficult experience.

Mr Barry has also been affected by your violence. He has experienced feelings of guilt and inadequacy because he feels he did not protect his partner sufficiently well from your violence. He also found giving evidence in Court challenging.

You are 35 years of age. You have a number of prior convictions, which suggests a somewhat cavalier attitude towards compliance with the law. You were before the youth courts by the age of 16. In that jurisdiction, you were dealt with for matters contrary to the *Misuse of Drugs Act*, driving offences, disorderly conduct, common assault, matters of dishonesty and matters of disturbing the peace by fighting. As an adult, it seems your behaviour continued in a similar vein. Again, you have prior convictions for driving offences, disorderly conduct, dishonesty offences, offences against police, including assaulting a police officer, bail offences, offences contrary to the *Misuse of Drugs Act* and dishonesty offences.

You have previously been given periods of suspended imprisonment, which you have breached. You have been sentenced to imprisonment on several occasions. Your prior convictions reflect a general attitude of lawlessness, but they do not indicate a strong propensity for violence.

I note that since these crimes were committed, you have been sentenced to imprisonment for offences contrary to the *Road Safety (Alcohol and Drugs) Act*. More recently, on 14 April 2026, you were sentenced for the offence of drive whilst disqualified. You were sentenced to six weeks' imprisonment, the execution of which was wholly suspended for a period of two years. Whilst it could not be said that you have ceased offending in all regards since the commission of these crimes, I accept there has certainly been a slowing in terms of your offending.

In 2017, you experienced a significant life event. You were diagnosed with Multiple Sclerosis. It has had a substantial impact upon you. You suffer with lethargy, regular body cramps, intense headaches and insomnia. You previously had a very strong work ethic, working in a variety of labour-intensive fields. Since your diagnosis with Multiple Sclerosis, you are unable to work. You are supported by the Disability Pension. Following your diagnosis, you developed depression and anxiety. At times, you have tried to self-medicate through the use of illicit substances. I am told you no longer use illicit substances but have obtained a prescription for medicinal cannabis, which you are using in accordance with medical advice. Such a substance would not be available to you in a prison environment. I accept your MS would leave you vulnerable in such an environment.

In the last two years, you have also formed a new relationship. Your partner is very supportive and a stabilising influence for you. You take on a caring role in respect to her two children. You also have a child of your own, born to your relationship with Ms Kenny, with whom you maintain regular contact.

Whilst your sister may not have been welcome at your home, your reaction to her presence there was extreme and unwarranted. Your behaviour was unruly and dangerous, and in my view, it is most fortunate that you did not inflict more grievous injury upon Ms Nibbs or Mr Barry. General deterrence is an important sentencing consideration. In my assessment, a term of imprisonment is necessary to mark the seriousness of the matter, but I take the view that the execution of that term of imprisonment can be wholly suspended, given your personal circumstances and the fact that I am satisfied that your use of violence to this extent is not common place, and on this day was a reaction to difficult circumstances.

I make the following orders. You are convicted of three counts of *Criminal Code* assault and two counts of unlawfully injuring property. I impose one sentence. You are sentenced to 15 months' imprisonment. The whole of that sentence will be suspended for a period of two years

from today on condition that you are not to commit another offence punishable by imprisonment during that time. I warn you Mr Lavell, that the law is that upon breach of a condition of a suspended sentence being proved, a judge must activate it and make you serve it unless it is unjust to do so. Therefore, if you wish to avoid serving the 15 months' imprisonment I have just imposed, you must strictly comply with the terms of its suspension.

I make a compensation order in favour of Marinda Louise Nibbs, the assessment of which will be adjourned to a date to be fixed. I make a compensation order in favour of Matthew George Barry, the assessment of which will be adjourned to a date to be fixed.