

STATE OF TASMANIA v AUSTIN DAVID ROBERT MILLERCHIP 14 APRIL 2026
COMMENTS ON PASSING SENTENCE WOOD J

Austin David Robert Millerchip has pleaded guilty to one count of assault.

On 14 November 2024, the defendant and his friends, including Bradley James Hinds and Jack Ambrose Gough, went to a bar in the Elizabeth Street Mall, called the Replay Bar. The complainant was the owner of the bar. It was approximately 9:40 pm and the defendant and his friends had already spent the evening consuming alcohol at three or four other venues.

Unbeknown to the defendant, Jack Gough was barred from entering the venue.

Once inside, the defendant and Mr Gough bought a drink at the bar and then walked outside to the outdoor patio overlooking the mall while Mr Hinds was being served at the bar.

The complainant approached Mr Gough and asked him to leave. An argument began between the complainant and Mr Gough, and the complainant pushed Mr Gough into a wall. The complainant punched Mr Gough to the face approximately four times. A bystander pulled the complainant away from Mr Gough and the complainant moved to go through the door back inside.

As he did so, Mr Hinds came through the door to the patio and charged at the complainant. He pushed the complainant over onto the ground. He sat on top of the complainant, straddling his torso, and then punched him to the head four times.

The defendant Mr Millerchip immediately became involved. He knelt next to the complainant's head and punched the complainant's face and head, a significant number of times, approximately 14 blows towards the complainant's face and head. It is not suggested every punch made contact.

The defendant then swapped positions with Mr Hinds and straddled the complainant. In this position he punched the complainant repeatedly to the head. Mr Hinds, in a kneeling position beside the complainant, used both arms to punch the complainant to the head approximately 12 times. The complainant was lying on the ground, and unable to move because he was being held down by the weight of both men.

Both men stood up and the defendant stood over the top of the complainant and punched him to the face another eight times; again, it's not suggested every punch made contact. Mr Gough punched the complainant to the back of his legs then kicked him twice to his lower back, and spat on the complainant's lower body.

Bystanders intervened and pushed the defendant and Mr Gough away from the complainant. However, the defendant went back to the complainant and slapped his face with an open palm. The defendant was pulled away again, but he again approached the complainant and stomped on his lower back. The defendant continued to assault the complainant. He picked up a plastic chair and threw it at the back of the complainant's legs and kicked the back of his legs. The defendant punched the complainant once to the chest. Mr Hinds pulled the defendant away from the complainant but the defendant picked up the plastic chair again and used it to hit the complainant to the lower back, breaking the chair in pieces. Mr Hinds again pulled the defendant away.

Mr Gough approached the complainant and yelled in his face. The defendant came up to the complainant again and punched him.

Mr Hinds and a bystander pushed the defendant into the main bar area away from the complainant. Mr Hinds approached the complainant and poured a glass of water onto his face.

The complainant struggled into a kneeling position but was unable to remain upright and fell back onto the ground. Mr Gough stood over the complainant and yelled at him and spat on him.

The complainant got back into a kneeling position. Mr Hinds and Mr Gough returned to the area where the complainant was and stood over the complainant, yelling at him. They were pulled away.

The complainant stood up and tried to leave the patio area. The defendant charged at the complainant. He put his hands on the front of the complainant's head and forced him back onto the ground. As the complainant fell, he nearly hit his head on a nearby table. The defendant stood over the complainant lying in the foetal position and punched him three times to the face, although again, it is not suggested every punch made contact.

The defendant and his co-offenders left the bar and were spoken to outside by police who obtained their details.

The incident was captured on CCTV footage, which reveals the extent of the violence inflicted on the complainant.

The complainant attended the Royal Hobart Hospital, was examined, and was found to have sustained the following injuries: bruising and swelling on his left eyelid with a small cut on his eyelid; haematoma in the sclera (the white) of his left eye; swelling to the left side of his jaw and bruising over his left ear; a comminuted fracture of the temporal bone; a left orbital floor fracture, and a mildly displaced nasal bone fracture.

It was expected the complainant would make a good recovery after a period of 6 – 8 weeks. No surgery or treatment was required for the fractures.

The complainant has chosen not to make a victim impact statement. Nonetheless, I readily infer that the attack has had a significant impact upon him. He suffered serious and painful physical injuries. While it is expected that the complainant's physical injuries have resolved, there is the strong prospect that the complainant has suffered ongoing emotional trauma and psychological harm.

The complainant was subject to a terrifying experience involving repeated and painful blows to his face and head for a sustained period, and when, for most of the assault, he was on the ground. He was no doubt aware of his vulnerability and that he was in a life-threatening situation.

The defendant was interviewed by police officers on 19 November 2024. He told police he had been drinking alcohol from around midday to the time they got to Replay and he was drunk. He said he and his friend stuck up for Mr Gough and he was responding to the complainant's behaviour, saying he "defended" his friend. His only thought process was "why did he hit Jack". He said he took "full accountability" for his violence, and he should have stopped when the complainant was on the ground. He said his morals and thought process were not there. In the interview, the defendant accepted responsibility for his actions.

I note the reason why the defendant began assaulting the complainant. He was angered by what he had witnessed and concerned Mr Gough had been physically attacked. I note he was aware Mr Gough had been previously injured, and that he had had surgery and plates inserted into his face approximately 12 months before.

I make it clear that in relation to the defendant's assault upon the complainant, involving many acts of violence, not one single act was, in any way, justified as defending his friend. Mr Gough was no longer under any threat when the defendant began assaulting the complainant. In fact, the complainant was being attacked by Mr Hinds.

The State asserts, and it is accepted, that the defendant is not only criminally responsible for his own actions as a principal offender but also the acts of his co-offenders in assaulting the complainant, on the basis he was an accessory to their violence.

After the interview the defendant was charged and bailed.

At the time of committing this crime the defendant was 21 years of age and is now 22. The defendant has no prior convictions for crimes of violence.

I take into account his personal circumstances. The defendant had a troubled upbringing. He was exposed to violence in the family home. His grandmother became an important caring figure in his life. She died when he was 12 and he felt as if everything in his life got worse after that. His parents separated at around this time. His mother left and the defendant and his other sibling – his brother – remained living with their father, but his father was abusive and violent towards them. The defendant left home at 13 and did not return. He was homeless; he spent periods staying with friends and living in shelters for children and living on the streets. He received support from Targeted Youth Support Services in 2019 for two years. He positively engaged with that service.

He was estranged from his mother after his parents separated for approximately five years when his mother initiated contact, and they have remained in contact since.

The defendant did well in terms of his education despite his difficult circumstances. He gained his Tasmanian Certificate of Education and completed a four-year painting apprenticeship in 2024.

His circumstances had deteriorated in the lead up to the offence. Shortly before, he had lost his job as a painter and was struggling financially. He had sold his car to pay his rent.

He has suffered from mental health issues since childhood. I have a report from forensic psychiatrist Dr Michael Jordan dated 28 July 2025 addressing this history and his ongoing symptoms. Some additional information is provided about his mental health history in a pre-sentence report provided by Community Corrections dated 31 March 2026. The author of that report has obtained information from a number of sources including a consultant paediatrician at the clinic the defendant attended as a child and adolescent.

The defendant was diagnosed with attention deficit hyperactivity disorder when he was approximately seven years of age. He was treated for this condition and attachment difficulties. In June 2020 the defendant was referred to the Child and Adolescent Mental Health Service, with symptoms of hearing voices and having paranoid thoughts. In July 2020 he experienced a psychotic episode and was admitted to the psychiatric unit at the Royal Hobart Hospital. He had been experiencing auditory hallucinations and distorted thought content, paranoia and problems with emotional dysregulation. He was formally under the care of the Community Mental Health Services for a period and discharged in December 2021.

Dr Jordan notes the defendant has not received any psychiatric treatment since then.

He has had problems with excessive alcohol use for several years and some drug use, including MDMA and cannabis. He was the driver in a motor vehicle accident in 2022 and was admitted to hospital with multiple injuries. In connection with that accident, he was convicted of driving

with alcohol in his body while a provisional licence holder. He also has convictions for committing a nuisance and destroying property in relation to events in 2023 suggestive of heavy alcohol use, for which he was fined. He has never been subject to a custodial sentence.

The defendant's excessive alcohol consumption is a factor in his offending before the Court today. Dr Jordan notes that there was no obvious deterioration in his ADHD or return to overt psychotic symptoms.

Dr Jordan considers that the defendant shows some features of borderline personality disorder and post-traumatic stress disorder. While Dr Jordan states he does not reach the threshold for a diagnosis for either condition, it is evident that the defendant's childhood and teenage experiences, particularly his exposure to physical violence and verbal abuse, continue to affect him. Dr Jordan states that as a consequence of his traumatic and dysfunctional attachment problems as a child he has developed problems with trust, feelings of paranoia, and low self-confidence.

Dr Jordan considers the defendant's experiences of trauma as a child provide context for his disproportionate response to seeing his friend initially assaulted. He explains that the defendant's particular problems with emotional regulation would be exacerbated at times of stress and intoxication, as occurred at the time of the crime.

Dr Jordan specifically considered the impact of the defendant's mental health condition on his culpability. Dr Jordan notes that the incident would have been unlikely to occur if the defendant had not been intoxicated with alcohol. Dr Jordan considers, however, that "there is some role, albeit nuanced, for the effects of his trauma to affect his ability to make sound decisions at the point of significant stressors. This can also impact upon his ability to control his emotions." In Dr Jordan's opinion, the defendant's condition contributed to his offending behaviour.

It seems to me that while the effect of his trauma experiences as a child is a mental health condition that may attract the "Verdins" principles, it is undoubtedly the case that the main cause of his criminal behaviour lies in his intoxication.

Nonetheless, in assessing the defendant's moral culpability, his mental health condition arising from his very deprived childhood and adolescence should be taken into account and given some weight.

Further, the deprivation of the defendant's background and his consequential mental health difficulties are subjective features that affect the weight that should be given to general deterrence. It is a case where it is appropriate to give particular weight to the defendant's rehabilitation, and general deterrence need not be given as much weight as it ordinarily would for this type of crime.

Dr Jordan also noted the fragility of the defendant's presentation at the time of interview and that it represented a gradual but significant deterioration in his global mental health over the previous six to seven months. In Dr Jordan's opinion, the defendant's mental health would make him "much more" vulnerable to the deleterious effects of prison than an individual without those concerns. I assume that at this stage his presentation largely remains the same, especially given the absence of treatment since the interview.

The defendant pleaded guilty at an early stage acknowledging his wrongdoing. He is very remorseful, which was evident to Dr Jordan. The pre-sentence report also documents the defendant's remorse when interviewed. He said he felt bad for the victim and the effect the assault has had on their life.

In July last year Dr Jordan described the defendant as stressed and fearful of the court outcome. That has also been evident to me during court proceedings. As Dr Jordan notes, he understands the seriousness of the charge. The defendant has been living in the shadow of imprisonment for a significant time.

There are other factors that bear on his prospects. An important factor is his demonstrated willingness to comply with recommendations to address his risk factors.

Dr Jordan noted in his report that it was essential that the defendant receives counselling in terms of his problems with alcohol use. As noted, intoxication was a feature of this crime and past offending. The defendant has now done that and by November 2025 he had completed five sessions of counselling with Anglicare Drug and Alcohol Treatment Service. The defendant acknowledges a need for ongoing support into the future so he can achieve his aim of being "drug and alcohol free".

He has attended his general practitioner and has been provided with a mental health plan regarding his ADHD symptoms. He has been referred to a psychologist and is waiting on an appointment.

It is noted, though, that there is an additional need for mental health intervention beyond treatment for the defendant's ADHD. Dr Jordan noted that the defendant required treatment and would benefit from expert psychotherapy to ameliorate his post-traumatic stress disorder type symptoms and improve his response to stress and pressure. Dr Jordan considered that at interview the defendant was depressed, and he would benefit from an antidepressant.

As well as the defendant's positive response to the recommendation of alcohol counselling and ongoing support, another positive factor is the defendant's employment. The defendant has been employed in a civil construction role on a full-time basis for over 12 months. The defendant is a valued employee, and the Area Manager speaks very highly of the defendant's skills, work ethic, and professionalism. He notes that the defendant's "reliability and commitment have made him vital to our operations." The defendant's supervisor has also provided a reference. It is worth noting that both references provide strong statements of support and speak highly of the defendant's personal and professional qualities, including concern for the wellbeing of his colleagues and that he is respectful and responsible.

I also have a personal reference from Ms Johns. The defendant is friends with her son and the defendant lived with her family for over a year. She speaks of the barriers and difficulties the defendant has overcome and that he has worked hard to be a productive member of society. She describes him as responsible, respectful, and insightful.

The defendant has managed to maintain his employment while experiencing deterioration in his mental health and the stress of these proceedings. I note he is improving his circumstances in other respects, and is supplementing his income by looking after people's dogs while they are away.

He has stable accommodation living in a hostel. Crown Counsel have pointed out that the defendant may be precluded from a home detention order due to the nature of this residence by reference to s 42AC(2)(e) of the *Sentencing Act*.

I take into account the sentences imposed on the defendant's co-offenders who were a similar age and had no relevant prior convictions. They were each remanded in custody for a week and then subject to a deferred sentence and are required to appear in December.

This is a particularly serious crime of assault. It involved a brutal and sickening attack by three men. The defendant punched the complainant numerous times, including to the head and face. The defendant delivered more than 22 blows although, as noted, it is not suggested that all of those blows made contact.

The defendant's actions displayed a complete lack of control and empathy for the complainant. The defendant's violence was sustained, and he was not deterred by the sight of the complainant obviously injured. The defendant was not deterred by the actions of concerned bystanders moving him away and, in fact, he returned to continue his attack on at least four occasions, each time when the complainant was on the ground, defenceless. It is accepted the defendant was intoxicated at the time and while that may explain his anger and lack of control, that does not reduce, in any way, the seriousness of the crime. All too often, uncontrolled rage and irrational responses are hallmarks of alcohol-fuelled violence.

This conduct requires a sentence which reflects the gravity of the crime, and it must be a sentence which sends a clear message to others that the court will not tolerate this senseless and abhorrent violence.

While general deterrence and denunciation are significant sentencing objectives, this is an exceptional case and an individualised approach will be taken, allowing rehabilitation to be given more prominence than usual for such a crime.

The defendant's circumstances and, against that background, the efforts he has made to maintain his employment despite instability and precarious mental health are telling, and demonstrate the defendant is a young man who is determined to reform.

In light of his very deprived background as a child, resulting in trauma and fractured relationships with both parents, and the significant effect of this background on his mental health, the steps he has taken in response to his criminal offending have particular significance. His mental health condition and ongoing symptoms arising from that background alone have presented very real and ongoing difficulties. Yet he has made significant progress, not only in terms of sustaining employment, but also in terms of being able to remove himself from the negative influence of peers and to address his alcohol and drug consumption. The progress he has made would be a positive factor for any young offender but particularly so given his background and ongoing mental health symptoms.

In assessing his prospects of rehabilitation, I take into account other positive factors such as his relative youth at the time of offending, his genuine remorse and insight regarding the gravity of his crime, his lack of convictions for violence before or since, and his cooperative and responsible attitude to ongoing intervention and treatment. I conclude that with appropriate supports the defendant is now well on the path towards reform.

In my view, these personal considerations, viewed in the context of his background and mental health, warrant an exceptional sentence.

It is in society's interests that the defendant realises that promise of reform and he turns away from crime permanently and leads a productive life. Incarceration would expose him to corrupting influences and a criminal culture, and undermine his progress and his future.

It will be plain, however, from the sentence I am about to impose that it is designed to be as heavy as possible but without requiring actual incarceration at this stage.

I record a conviction for the crime of assault, and I impose 15 months' imprisonment wholly suspended for the maximum period of three years on the following strict conditions:

- you must not commit any offences that could attract a sentence of imprisonment for three years;
- you are subject to the supervision of a probation officer for three years;
- you must comply with the Community Correction Order I will impose as an additional sentence for three years; and
- you must perform 240 hours of community service within two years.

This suspended sentence will be subject to other required conditions that will be set out in the copy of the sentencing orders you will receive. These are also conditions of the Community Correction Order I am about to impose.

I also impose a Community Correction Order to be in place for a period of three years. The core statutory conditions apply:

- (a) you must not commit an offence punishable by imprisonment;
- (b) you must report by 4.00pm tomorrow to Community Corrections, 75 Liverpool Street, Hobart;
- (c) you must report to a probation officer as required by that officer;
- (d) you must not leave or remain outside Tasmania without the permission of a probation officer;
- (e) you must comply with the reasonable and lawful directions given by a probation officer;
- (f) you must give notice to a probation officer of any change of your address or employment before or within two (2) clear working days after, the change;

Special conditions:

- (g) you must attend, participate in, and complete the EQUIPS Aggression Program as directed by a probation officer;
- (h) you must undergo assessment and treatment for drug and alcohol dependency as directed by a probation officer;
- (i) you must submit to testing for drug and alcohol use as directed by a probation officer;
- (j) you must submit to medical, psychological or psychiatric assessment or treatment as directed by a probation officer, including treatment to address the recommendations made by Dr Michael Jordan in his report dated 28 July 2025; and
- (k) you must appear before the Supreme Court at Hobart on Monday, 3 August 2026 at 4.00 pm for a review of this Order.