

STATE OF TASMANIA v NICHOLAS JOHN MANSER
COMMENTS ON PASSING SENTENCE

19 DECEMBER 2025
WOOD J

The defendant Nicholas John Manser has been found guilty of one count of aggravated burglary, one count of assault, and one count of wounding. The crime of aggravated burglary is contrary to s 245(b)(ii) of the *Criminal Code* in that the defendant entered a place with intent to commit the crime of stealing and violence was used and/or offered whilst in or leaving the place of the burglary.

On 9 September 2024 Ms Murphy was at home in New Norfolk. She was present with her friend, Ms Donoghue, who was visiting; both women were in their 60s.

During the afternoon there was a knock at the door. Ms Murphy went to the door and opened the main door but left the screen door locked. Two men that were known to her, the defendant and his half-brother Darren Leigh White, were at the door, wanting to buy marijuana. They wanted to come inside but she told them no and to wait outside while she went to get it for them. She understood the screen door was still locked; however, the lock was faulty. One of the men opened the screen door and both went inside and followed her into the bedroom. When Ms Murphy realised, she asked them, "What are you doing in here?" and told them to get out.

They pushed the bedroom door shut and the defendant demanded a gun and asked her where it was. He was holding a telescopic metal baton and raised it in a threatening action as if he was going to hit her with it. Ms Murphy told him that she did not know what he was talking about and that she did not have a gun. He continued to ask about a gun. Then he pushed her to the chest onto the bed. It was a forceful push, using his fist and hurting her chest.

He continued to ask about a gun and threaten her with the baton and then rifled through her drawers. At one point he asked for Valium which she did not have. Mr White was at the doorway, blocking Ms Murphy's exit from the bedroom, although it is accepted that that was not intended.

In the meantime, Ms Donoghue, who was out in the lounge-room, heard noises and raised voices, and called out to Ms Murphy asking her if she was alright and Ms Murphy replied that she was not. Ms Donoghue heard the defendant shouting, "Where's the gun?". She opened the door and saw Ms Murphy sitting on the bed and the defendant near her. Ms Donoghue said, "Don't you hurt her" and the door was kicked shut. Ms Donoghue said she was going to call the police and went outside.

When there was mention of the police, the defendant and Mr White opened the bedroom door and rushed out. Ms Murphy followed them outside. Ms Donoghue was outside at this time on the edge of the path. The defendant deliberately made contact, pushing past her and she fell to the ground. As a consequence, she fell on her back. In pushing her in this way the defendant committed the crime of assault. The men were yelling that if the police came, they were going to 'firebomb' Ms Murphy's house.

Ms Murphy's neighbour, Mr Weston, became aware of the disturbance and saw Ms Donoghue fall backwards onto the ground and the defendant close by. He came outside his house with a large garden fork and confronted the defendant who was holding the extended baton at about shoulder height. Mr Weston said, "Effing well hitting women, are we?" and swung his garden fork at the defendant, striking the defendant to his legs with the back of the tines.

The defendant immediately struck Mr Weston to his forehead with the baton, wounding him. In his evidence, Mr Weston described that the blow was struck with moderate force, enough to split the skin but the defendant could have hit him a lot harder if he had wanted to. The wound sustained by Mr Weston was approximately 3 cm in length.

The defence case was that the defendant was acting in lawful self defence. In finding the defendant guilty of wounding, the jury rejected this defence. I am satisfied beyond reasonable doubt the defendant's conduct in striking Mr Weston with the baton was not lawful self defence. In reacting as he did, the force the defendant inflicted was excessive given the circumstances.

The fact that the wound was inflicted at a time when the defendant was confronted by an angry man with a large garden implement is not mitigatory in the circumstances of this case. The defendant created a situation where Mr Weston was rightly concerned about his neighbour due to the defendant's unlawful and intimidating behaviour.

Another neighbour, Steve Munnings, drove up the road and stopped his car in between Mr Weston and the defendant and Mr White. Ms Donoghue called out that she had called the police, and the defendant and Mr White ran off, yelling abuse as they ran, taking Mr Weston's garden fork with them.

Police arrested them later that day at an address at Downie Circle in New Norfolk.

Mr Weston was assisted by Ms Murphy and Ms Donoghue who attended to the wound on his forehead, cleaning it and applying Steri-Strips. He did not seek medical attention.

The complainants Ms Murphy and Ms Donoghue were both sore and disturbed but fortunately did not sustain physical injury. The three complainants were, however, adversely affected by this unexpected, aggressive, and violent conduct. For Ms Murphy no doubt it was a real invasion of her home and impacted her sense of safety. Ms Donoghue has provided a victim impact statement. Her sense of personal safety has been affected, and she is now prone to feeling fearful and nervous.

The State asserts, and it is accepted, that the defendant and Mr White entered the house as trespassers with a common intention to steal a firearm and/or drugs from Ms Murphy. The defendant is guilty as the principal offender in that he both used and threatened violence towards Ms Murphy. He is the principal offender in relation to the offence of assault upon Ms Donoghue and the primary aggressor throughout the incident.

Mr White is guilty of the crime of aggravated burglary on the basis that the threat and use of violence by Mr Manser towards Ms Murphy was a probable consequence of their shared purpose and on the same basis he is guilty of the assault upon Ms Donoghue.

The defendant is solely responsible for the wounding of Mr Weston. He intentionally struck the complainant to the head with the baton, causing a wound, with a state of mind of recklessness as to whether a wound would result from the blow. In other words, he was well aware he was using enough force to break the skin and a wound may well result from the blow he inflicted.

It is not asserted by the State that there was any pre-meditation in relation to the burglary or the violence that was inflicted. An innocent explanation has been given for why the defendant had the baton in his possession. He is said to have found it shortly beforehand and kept it to

give to his nephew. That explanation is not disputed by the State, and I proceed on the basis that it is true.

After the defendant was arrested he was remanded in custody, and I take into account that he has spent 77 days in custody in relation to the crimes before the Court.

The defendant is aged 41 years. He has extensive relevant prior convictions: at least 14 convictions for burglary, several for aggravated burglary and several for trespass, 5 for assault, and many for stealing. He also has a number of firearm offences including possession of ammunition, and drug offences. He has been subject to a range of sentencing orders including community service, actual and suspended imprisonment, two drug treatment orders, and multiple orders involving supervised probation.

The defendant had a very disadvantaged childhood and adolescence. He was raised by his mother and step-father who was an abusive and aggressive man. The defendant witnessed his mother being subjected to violence and he was a victim of violence himself. He suffered from physical neglect as well as abuse; his basic needs were not met, and he stole food at a young age.

He was diagnosed with attention deficit hyperactivity disorder in his adolescence and he was very unhappy at school where he struggled and was bullied. His step-father used drugs and introduced the defendant to cannabis as a teenager. His mother died approximately 20 years ago, which had a significant effect and his grief is unresolved. His grandmother was a mainstay of support. She died in 2022 at a time when he was in custody and he has found it difficult to process his grief.

He has a long history of drug abuse, involving methamphetamine and cannabis. His offending is strongly tied to his drug addiction and chaotic and unstable lifestyle, his lack of emotional and personal resources, and lack of support.

There has been in recent times a significant improvement in his circumstances, principally as a result of the support of his two sisters. He is living with one of his sisters and her two young sons. She does not allow drugs in her home. He has commenced drug counselling at The Hive, a drug and alcohol service. The arrangement is that he will have regular counselling there and that should be promoted.

The defendant is also addressing his mental health. He has consulted his general practitioner for the purpose of a mental health plan and is waiting on an appointment with a psychiatrist.

His living arrangements with his sister are stable. His sister wants to support him. In return he is helping her by caring for his young nephews. This is allowing her to work full-time. This is no doubt hard work and importantly it provides him with routine and a sense of purpose. He is someone who now has very significant responsibilities.

I have been provided with a pre-sentence report from Community Corrections. The positive steps taken by the defendant are noted and he is considered to be suitable for community-based supervision and community service. In a subsequent report he is assessed as suitable for home detention. His needs are great, and he is assessed as requiring a "very high" level of intervention from Community Corrections.

The defendant has taken positive and significant steps to turn his life around. That is very significant. He is now being offered support and practical assistance by family and services which were lacking in his childhood and formative years. This represents what I see to be a critical opportunity. It seems that this is understood by the defendant, and I am encouraged to see that. The goal of rehabilitation should be given significant weight.

Noting the contents of the pre-sentence report I am concerned the defendant does not yet fully understand the seriousness of his criminal behaviour and has not yet developed that insight. I accept that, as stated by the author, he requires targeted interventions to address his substance use and to assist him in understanding the impact of his offending. While rehabilitation is important, so too is personal deterrence. There is a need to reflect the gravity of the crimes committed.

Mr Manser, your unlawful entry into Ms Murphy's house in the company of your brother with the intention of stealing and intimidating Ms Murphy is very serious. You then acted with violence during the burglary in pushing Ms Murphy and you repeatedly threatened her with a weapon, and pushed Ms Donoghue as you were leaving. You frightened both women and alarmed Mr Weston who came to their assistance and then you struck him with the weapon you were still carrying.

Mr Manser it is time to cease this violent behaviour, and I am sure you know that.

The sentences I will impose will provide an opportunity for you to reform but will also involve clear consequences if you are not fully compliant.

Before I proceed to sentence, I note the sentence I imposed on Mr White for the crimes of aggravated burglary and assault being a period of 4 months' imprisonment wholly suspended. However, Mr White is not a comparable offender, he had a much lesser role. His circumstances are different too, noting, in particular, his serious health condition. I note his condition is also a stress for you because of your concern for him.

Mr Manser, you are convicted of the crimes of aggravated burglary, assault, and wounding. In relation to the aggravated burglary, I impose a sentence of 10 months' imprisonment wholly suspended for a period of two years from today, subject to the following conditions:

- You must not commit an offence punishable by imprisonment for a period of two years;
- For the same period, you are to be submit to the supervision of a probation officer;
- You must, no later than 5 pm today, attend Community Corrections at 75 Liverpool Street, Hobart and report to a probation officer and subsequently as required by a probation officer;
- You must comply with the reasonable and lawful directions of a probation officer or supervisor as required;
- You must not leave or remain outside Tasmania without the permission of a probation officer;
- You must give notice to a probation officer of any change of address or employment before, or within two working days after, the change;

- You must submit to the supervision of a probation officer as required by the probation officer;
- You must satisfactorily perform 98 hours of community service within a period of two years as directed by probation officer;
- You must attend educational and other programs as directed by a probation officer;
- You must undergo assessment and treatment for drug dependency as directed by a probation officer;
- You must submit to testing for drug use as directed by a probation officer; and
- You must submit to medical, psychological, or psychiatric assessment or treatment as directed by a probation officer.

In relation to the crime of assault, I impose a suspended sentence of one month imprisonment wholly suspended for the same period of two years and subject to the condition that you must not commit any offences that could attract a term of imprisonment for that period.

In relation to the crime of wounding, I impose a Home Detention Order for the operational period of 9 months. I impose the core statutory conditions which require that you must not commit an offence punishable by imprisonment for a period of 9 months. You must reside at the home detention premises [address specified]. You must comply with all other core conditions which include that you must permit a police officer to conduct a search.