

The defendant, Matthew Terry Bellears, who was aged 42 at the time of offending, has pleaded guilty to one count of assault. At the time, he resided in a rental property on Bruny Island owned and occupied by Stephen Wyles, and the complainant, Gary David Smith, who was aged 71 at the time of the incident, leased a portion of Mr Wyles' land for the purpose of cattle agistment. The complainant had rented land from him for a period of four years and advised Mr Wyles he intended to conclude this agreement on 31 December 2023.

There had been some disagreement about potential damage caused to a driveway on the property by the complainant's cows and messages between the complainant and the defendant about this had become extremely acrimonious.

In mid-December 2023, the complainant removed his cattle from the property. On 31 December 2023, the complainant went to the property to collect items left there, including a cattle feeder, a star picket fence and an electric solar panel and fence.

As the complainant arrived at the property, the defendant was there mowing the lawns. The defendant told the complainant he was not allowed on the property, and pushed the gate closed against him. The complainant pushed back on the gate, attempting to enter. The complainant told the defendant that the agistment did not end until that night, and that he was going to enter to collect his property. The defendant then told him he was not allowed in. The complainant continued to push against the gate. The defendant began to punch the complainant to the face, with both fists, multiple times.

The complainant attempted once more to push the gate open. The defendant yelled abuse at him, saying, "I will fucking kill you".

The complainant walked away from the gate, telling the defendant he was going to the police, and calling him names, including that he was a drug addict. The complainant began to walk towards his car, about two metres from the gate. The defendant followed him, and said, "I'm fucking going to get you". As the complainant turned towards him, the defendant punched him to the face four or five times, with greater force than the previous punches. The complainant stumbled and fell to the ground, on his back.

The complainant got into his car and drove to the Alonnah Police Station to report the incident. Ambulance Tasmania was called to attend, and the complainant was transported by ambulance to the Royal Hobart Hospital for treatment.

The complainant suffered the following injuries:

- (a) Symptoms consistent with concussion.
- (b) A 4cm laceration underneath his left eye.
- (c) Bruising to the left side of his face and around his eye.
- (d) Epistaxis.
- (e) A subconjunctival haemorrhage of the left eye.
- (f) A small fracture of the orbital floor bone below the left eye (which did not require surgical intervention).

The cut under the complainant's eye was cleaned and closed with sutures. He was admitted to hospital overnight to monitor for symptoms of concussion.

When police eventually interviewed the defendant, he became heightened telling police that he could not stop yelling and that it was his mental illnesses which caused this, including PTSD, bipolar disorder, drug-induced psychosis, schizophrenia, depression and anxiety.

The defendant gave an entirely inconsistent account of the offending and said that he wished to press charges against the complainant.

The Safe at Home Information Management System reveals five recorded incidents of violence between the defendant and his partner, one of which is recorded as a family violence incident. The defendant is listed as the perpetrator on three occasions. In 2024, a Police Family Violence Order was issued against him which was in force for 12-months. His interstate prior criminal history reveals family violence related offences in 2019. It also reveals that he was made subject to three community-based orders in Victoria between 1999 and 2014, and was sentenced to two Community Correction Orders between 2017 and 2019, and a parole order in 2017 after a sentence of imprisonment in New South Wales imposed, amongst other things, for firearms offences.

He has been offence free in the last two and a half years, which is of great significance.

I have had the benefit of a comprehensive pre-sentence report on the defendant and I note that he is not recommended for home detention order and is unsuitable for community service, but that he would benefit from a supervised community correction order.

The author of the report writes:

"The accused is one of three children born to the union of his parents. Mr Bellears advised he spent the majority of his childhood and adult life in Victoria, until he relocated to Tasmania in 2019. Mr Bellears explained during his childhood he witnessed his parents engaged in alcohol misuse, stating there were times he would 'sleep under the pool table in the pub' while his parents were drinking. Despite his exposure to alcohol use, the accused reported a positive childhood. The accused stated he is the 'black sheep of the family', identifying an estranged relationship with his parents and two sisters. The accused advised around 18 months ago; he has begun to rebuild the relationship with his father after having no contact for approximately 15 years. He mentioned his mother 'disowning' him due to his historical illicit substance use. Mr Bellears stated although there is sporadic contact with his father, he believes his parents are 'still in the mindset of me being 21 on drugs'. Mr Bellears stated he does not have any family members in Tasmania."

The defendant is in full time employment and he is well regarded by his employer. He was involved in a workplace accident which resulted in a torn ligament in his left ankle but has now been medically cleared to return to light duties, four hours for three non-consecutive days per week.

The author of the pre-sentence report also advises me that:

"Mr Bellears identified his offending behaviour was a result of protecting himself and property which he was trusted to look after. Upon reflection, the accused stated that he felt 'backed into a corner' and 'did everything he could' to prevent an altercation from occurring. Mr Bellears explained he feels embarrassed about his offending behaviour. However, the accused was unable to portray any remorse stating he does not care about the victim, stating 'I am looking at jail time for protecting myself' and claimed the victim assaulted him first. He stated although the victim started the altercation, he, the victim, 'came out the worst for wear.' Mr Bellears advised he feels let down by the system, namely by police as he reported knowing them personally and believes he was treated poorly during questioning."

Given this, the author of this report found it difficult to ascertain the true genuineness of his claims.

This lack of insight and lack of remorse is troubling, and, absent community service as an additional penalty, then I am of the view, given the shocking degree of violence involved in the assault, that a substantial period of home detention is the only appropriate penalty.

The defendant is convicted and is sentenced to 12 months' home detention. I impose the following conditions on the statutory order, as recommended by the author of the pre-sentence report I have received:

- 1 You must attend the Community Corrections office at 75 Liverpool Street, Hobart for induction onto this order on Tuesday, 9 June 2026 at 9:00am and must comply with the conditions of this order until then.
- 2 You must not commit an offence that is punishable by imprisonment.
- 3 You must, during the operational period of this order, remain at **[address redacted]** at all times unless approved by a probation officer.
- 4 You must be at the home detention premises at all times, except if you are not on those premises because:
 - (a) you are travelling to or from, or are at, premises seeking urgent medical treatment or dental treatment; or
 - (b) it was necessary to leave the premises in order to avoid or minimise a serious risk of, the death of, or injury to, you or another person; or
 - (c) with the approval of a probation officer or prescribed officer, given –
 - (i) so as to enable you to comply with a special condition; or
 - (ii) so as to enable you to seek or engage in employment; or
 - (iii) so as to enable you to attend an educational or training course or activity; or
 - (iii) so as to enable you to attend a rehabilitative or re-integrative activity or program; or
 - (iv) so as to enable you to attend a court; or
 - (v) for any other purpose approved by the probation officer or prescribed officer.
- 5 You must permit a police officer, probation officer or prescribed officer to enter the home detention premises.
- 6 You must permit a police officer to:
 - (a) Conduct a search of the home detention premises; and

- (b) Conduct a frisk search, within the meaning of the *Search Warrants Act* 1997, of you, at the home detention premises or at any other place or premises; and
 - (c) Take a sample of a substance found on the home detention premises or on you.
- 7 You must comply with any reasonable and lawful directions of a probation officer or prescribed officer, including any directions of you as to the kind of employment, or the place of employment, of you.
- 8 You must, during all of the operational period of the order submit to electronic monitoring, including by wearing or carrying an electronic device.
- 9 During the period that you are required to submit to electronic monitoring:
- (a) You must not remove, tamper with, damage 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; and
 - (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.
- 10 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.
- 11 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.
- 12 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 submit to the supervision of a Community Corrections officer as required by that officer.