

**STATE OF TASMANIA v DYLAN ALLAN BESTER**  
**COMMENTS ON PASSING SENTENCE**

**22 JUNE 2026**  
**JAGO J**

Dylan Bester you have pleaded guilty to one count of Criminal Code assault. In the early hours of the morning on 6 August 2021, after a night out drinking alcohol with friends, you assaulted the complainant by punching him multiple times and kicking him to the head area. You and the complainant were not known to each other. You and several of your friends were out at the Pub Rock Diner in Devonport celebrating a birthday. The complainant was also there. At the relevant time you were aged 18. The complainant was aged 31.

At approximately midnight the complainant left the diner and walked into the Rooke Street Mall. Your friend, Mr Lang, was also in the mall at the time. The complainant approached Mr Lang and a confrontation ensued between the two of them. At a point when the complainant had Mr Lang pushed up against a shop window, you and two of your friends came outside into the mall and observed this interaction. You ran towards your friend as you believed he was experiencing difficulty. You and your friends pulled Mr Lang and the complainant apart. A verbal disagreement followed. This quickly escalated and became physical. For about two minutes you and three of your friends were involved in an assault upon the complainant, although the State accept that some of the applications of force that were inflicted during the fight were in lawful self-defence.

You, however, are criminally responsible for the following unlawful applications of force: whilst others were already attacking the complainant, you punched him once to the head area; at another point whilst the complainant had his hands over his head and Mr Lang had him in a head-lock, you punched the complainant eight times in 10 seconds to the head area; and towards the end of the assault, whilst the complainant was lying on the ground and security from the diner were standing between your group and the complainant, you walked up to the complainant and kicked him once to the head.

The complainant was taken to hospital. As a result of the assaults, he suffered fractures to the hyoid bone. He also had a cut lip which was closed with two sutures. He spent time in the ICU being monitored as fractures to the hyoid bone can result in a compromised airway. Fortunately, in this case that did not eventuate. I have considered the impact statement provided by the complainant. He has been badly affected by the combination of assaults perpetrated upon him and still experiences apprehension and anxiety, particularly in circumstances where there are a number of unknown people present. He has undertaken psychological counselling.

The State do not assert that you bear criminal responsibility for the assaults perpetrated by your friends. The State also accept, generously in my view, that in respect to the punches you inflicted to the complainant's head, that you held a belief that you needed to defend yourself, but your conduct was unlawful because the force you used was not reasonable in the circumstances. The State do not assert that it was any of your acts which caused the fractures to the complainant's hyoid bone. I accept that your involvement in this matter commenced because you were concerned about your friend, but irrespective of that, there is no question that punching and kicking a person to the head area is a very dangerous thing to do, particularly in circumstances where the complainant is already vulnerable because he is being attacked by others, and therefore has limited opportunity to defend himself.

On 6 August 2021, you participated in a record of interview. You told police that the complainant was being "completely rude" when he spoke to your group inside the Pub Rock

Diner. You told police that you had kicked the complainant in the head because he had "pissed you off". You also told police that you believed the complainant "deserved it, half of it ... probably not all of it but he did deserve half of it, some of it". You agreed the kick was "probably too much". The comments you made to police could hardly be said to be reflective of genuine remorse or demonstrative of any insight into the level of danger associated with your conduct, but I also accept they are perhaps reflective of the misplaced bravado of an 18-year-old.

You are now 23 years of age. You were 18 when the crime occurred. You have no prior convictions. You completed schooling but have significant literacy and numeracy issues. You are currently undertaking a program for adult literacy. You have recently applied for some labour-based positions of employment and are hopeful of receiving such a position shortly. You live with your father who provides you with significant support. This matter has taken a considerable period to resolve but I accept the pleas of guilty that have now been entered are upon a different basis of criminal liability than that originally alleged by the State. As noted, you became involved in this matter initially because you were concerned about your friend. Things spiralled quickly out of control. I accept this conduct was out of character for you. Alcohol was undoubtedly a contributing factor to your poor decision-making this night. Since the incident, I am told that you have not consumed alcohol at all. Rather, you have been living an unassuming existence focussed on bettering yourself and ensuring there is not a repeat of this type of behaviour. Given your lack of prior criminal history, and the fact that you have not offended in the nearly five years since, I can accept that your behaviour this night was something of an aberration and therefore specific deterrence is not a particularly weighty factor. General deterrence in a matter of this nature however is always an important sentencing consideration. The Court too often must deal with the often terrible consequences of incidents of violence, which happen after people have consumed too much alcohol. It is important that you and others understand that inflicting violence particularly when affected by alcohol can very easily lead to serious, life-changing, harm being occasioned to others, even if such harm was never intended.

I take into account to the extent that it is relevant, given the different basis of criminal responsibility, the sentence imposed upon your co-accused. I also note the contents of the pre-sentence report. You are not considered suitable for supervision given your low risk of reoffending and the family supports you have in place. Taking all matters into account, I have determined this matter can be appropriately dealt with by requiring you to perform some community service.

I make the following orders:

You are convicted of the crime of assault. I make a Community Correction Order for an operational period of 15 months from today. The statutory core conditions of a Community Correction Order are imposed. Those conditions will be set out in a document that will be provided to you.

I also impose the special condition that within the operational period of the order you perform 105 hours of community service. You must comply with any directions given to you by a probation officer or community service supervisor and you must satisfactorily perform those hours as directed by a probation officer or community service supervisor.

I direct you report to Community Corrections Devonport by close of business tomorrow.