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THE SUPREME COURT OF

THE NORTHERN TERRITORY

SCC 22501684

THE KING

and

MARGARET JOYCE SMITH

(Sentence)

HUNTINGFORD J

TRANSCRIPT OF PROCEEDINGS

AT DARWIN ON WEDNESDAY 23 SEPTEMBER 2026

Transcribed by:
EPIQ

HER HONOUR: Margaret Smith, you have entered a plea of guilty to one count of unlawfully causing serious harm to JD. The maximum penalty for that offence is imprisonment for 14 years.

The facts of the offending were that you were 55 years old when you committed the offence.

On 25 December 2024, you and JD, your domestic partner, were at a house in Ludmilla. Both of you consumed alcohol and you became intoxicated.

An argument developed because JD wanted to leave and you wanted him to stay. You became angry and struck him in the face with force. One of your fingers made direct contact with his eye.

JD immediately experienced pain and loss of vision in his left eye. As a result of the assault, JD suffered a ruptured globe of that eye with choroidal detachment causing loss of sight.

The injury required surgery and ongoing treatment. Before this assault, JD was already blind in his right eye. As a result of losing the sight in his left eye, he is now legally blind in both eyes. The injury constitutes serious harm, and in addition to the loss of sight, if left untreated, it also carried a risk of life-threatening infection.

I read the victim impact statement from JD. He says that he is upset that he has lost the sight in his remaining eye and is now blind. He said the injury is life-changing and he can no longer look after himself. I am told that JD has needed to move into care and has lost his independence because he has become blind.

This offending occurred in the context of a domestic relationship and involved deliberate violence. That is a formal aggravating feature pursuant to s 6A of the *Sentencing Act*.

I accept that you did not intend to cause the victim serious harm when you poked him in the eye, of course, however, the blow was directed to an inherently vulnerable part of the body, namely the face and the eye and it was foreseeable that such an injury would result.

The force used must have been significant, as demonstrated by the catastrophic injury that resulted. The attack was unprovoked.

You must have known that JD was blind in one eye, because he had been your partner for ten years. The impact upon JD has been devastating and permanent, as I have explained.

I note that in terms of the seriousness compared to other offending of its type, it was an offence which was short in duration, unplanned and spontaneous and was a single strike. Having regard to the gravity of the injury and it is permanent

consequences, I assess the injury as in the upper part of the midrange compared to other offences of its type.

As to your personal circumstances, at the time of the offending, you were 55 and you are now 57 years of age.

You were raised at Belyuen Community by your mother. You enjoyed growing up on country, hunting, fishing and spending time with family out bush.

However, the presentence report says that you regard your childhood as difficult because you often witnessed violence and alcohol abuse in the home, and I am told that your mother struggled with alcohol addiction.

You attended school to Year 11 at Kormilda College and you can speak English.

You moved to Darwin to live with your sister at the Bagot Community when you were about 18. I am told there was a lot of antisocial behaviour, including violence and alcohol abuse, at that community. You started drinking with other people at the community around that time.

You have had a number of domestic relationships during your life and you have been a victim of domestic violence at the hand of some of those partners. On some occasions, you have been seriously injured. In this relationship, both you and JD were heavy drinkers.

You do not have any children of your own, but the presentence report says that you have helped to raise your sister's children after her untimely passing.

You seem to have limited social supports. Your relationship with JD has now ceased and I am told that many of your family members have sadly passed away. While you have been in gaol, you have missed two significant funerals, including that of your brother, which has caused you significant distress, grief and shame. You do, however, have a positive relationship with your niece, as stated in the presentence report, and I am told this morning that you also have a good relationship with your sister at Belyuen.

In relation to your medical history, you are currently on medication for high blood pressure and for seizures. You also suffer from gout and you have reduced mobility due to knee problems. Your lawyer has also told me that you have some hearing loss. You also told the presentence report writer that you have problems with your kidneys and that being in gaol has negatively affected your mental health.

Also, after this offending, you were kicked in the face by a person in unrelated offending. That person was wearing steel capped boots at the time and you suffered a serious head injury and a reduction in your vision as a result. I am told the person who did that has since died and you did not make a complaint to police.

You told the presentence report writer that you wanted to go back to live with your niece at Minmarama. The presentence report writer said that that is not a necessarily good environment for you there because there are a lot of other people drinking alcohol in that house. However, I am told this morning that there may be other options when you are released, including going to Belyuen with your sister who does not drink.

Your lawyer told me that you might benefit from a residential rehabilitation program to help with your alcohol addiction, and the presentence report says that as well. You say that you have an incentive to stop drinking now because of your bad health and I note that you have been in gaol for 14 months and of course, during that period, you have not had any alcohol. You did express some concerns about your health and going into residential rehabilitation, but there was no real explanation as to why that would be the case, and I do not think that there is anything particularly physically taxing about those programs.

I think that, given your history, you would likely find it very difficult to maintain your sobriety on release without some help, particularly if you are required to return to an environment where everyone else is drinking because you have nowhere else to live.

As to your criminal history, you have a limited but relevant criminal history. There are two aggravated assaults for which you served short periods of imprisonment, three breaches of domestic violence orders and seven breaches of bail. Some of those offences are dated, the earliest being around 20 years ago.

You have a conviction for an aggravated assault in December 2021, but that sentence was suspended after 7 days and, although the presentence report says that you have breached suspended sentences in the past, there is nothing on your criminal history indicating that you did breach that sentence.

The maximum penalty of 14 years' imprisonment indicates that parliament regards this as a serious offence.

The primary sentencing purposes are punishment, denunciation, general and specific deterrence and community protection.

The sentence must make it clear that violence of this kind in a domestic relationship is unacceptable and will attract significant punishment, particularly where a vulnerable victim has suffered permanent disability as a result of such a serious injury.

The seriousness of the injury is a defining feature of this offence and the fact that you were intoxicated is not mitigating. However, I do take into account that you come from a background of childhood disadvantage where the use of violence and alcohol were normalised and that has some effect in reducing your moral culpability and therefore the emphasis given to general deterrence in this sentence.

Because you have committed violence in the past, specific deterrence also has some work to do; you must be discouraged from committing further violence in the future, but I do not think you are a person with a serious violence history. You are responsible for what occurred. You deliberately struck JD and you must bear full responsibility for the consequences of that offending.

As I have said, the harm caused to JD is profound. He can no longer see and worries about how his life has changed and who will care for him, and he requires assistance with daily living on a permanent basis. I am told that you have largely spent your time in gaol reading the bible, watching Christian films and sharing your rediscovered Christian faith with other women.

You have been on remand for a considerable period of time, as I have said. Unfortunately, you have not - as I understand it - been offered any programs during that time.

Due to your health issues, time in custody is likely to have been somewhat more difficult for you than for other prisoners and I take those matters into account. Your rehabilitation prospects are difficult to assess, although the older you get, perhaps it is more likely that you will cease to offend. The main issue is your longstanding and serious alcohol addiction.

As to your plea, the matter was never set for trial and there is utilitarian value to your plea. A plea is an acceptance of responsibility and some evidence of remorse. I will give you a discount of 25 percent on the sentence I would otherwise have imposed as a result of your plea. A term of imprisonment is clearly the only appropriate sentence.

As to the structure of the sentence, you have a significant problem with alcohol abuse for which you need assistance. You did not come to court for this matter when you were originally on bail and that is, as I understand it, how you came to be in prison on remand. On the other hand, you do appear to have managed to complete a previous suspended sentence with no significant breach, at least no restoration.

You have been assessed as unsuitable for supervision in the presentence report for two reasons; because the proposed address was one where other people are said to have significant issues with consumption of alcohol, and also because you have not completed any programs. As to the second of those, that is a matter outside of your control.

I am concerned that you have breached court orders in the past, including domestic violence orders and breaches of bail. That tells me that you have not always found it easy in the past to follow the rules. On the other hand, you are not a young woman and you have some not insignificant health issues. I think that if you could engage in residential rehabilitation and then perhaps transition into suitable housing, your rehabilitation prospects would be significantly improved.

Absence from alcohol will be an important matter for you in the future, although it might be hard. I think that supervision by Community Corrections will help you to keep away from alcohol.

Can you stand up, please, Ms Smith?

You are convicted of the offence on the indictment. If it was not for your plea, I would have sentenced you to imprisonment for 6 years. However, that is reduced to 4 years and 6 months after discount.

That sentence will be suspended after you have spent 1 year and 10 months in gaol, for a period of 2 years and 9 months from release.

So during that period, you must comply with the following conditions:

1) You must be of good behaviour and not commit any other offence punishable on conviction by imprisonment.

2) You must be under the supervision of Probation and Parole and you must obey all their reasonable directions.

3) You must reside at an address approved by Probation and Parole.

4) You must, if you are assessed as suitable, immediately enter into residential rehabilitation, participate fully in that program and do nothing to cause your early discharge.

5) You must, if you are directed to do so, wear an electronic monitoring device and obey all the rules for that device.

6) You must participate in any community-based assessment, counselling or treatment if you are directed by Probation and Parole to do so.

7) You must not purchase, possess or consume alcohol or any dangerous drug not prescribed by a medical practitioner and you must submit to testing on request by Probation and Parole or a police officer.

Do you agree with those conditions, Ms Smith? Yes, okay. I can see you nodding there. You can take a seat. So Ms Smith, after you get out of gaol, you must follow all of those rules. It is really important that you do not drink any alcohol or take any cannabis and you must not commit any other offences, of course. If you break those rules, you will have to come back to court and you could be sent back to gaol. Do you understand that?

I turn now to the question of the domestic violence order. Given the seriousness of the offending, I must consider whether there is an unacceptable risk of further domestic violence or whether a domestic violence order should otherwise be varied

pursuant to s 83 of the *Domestic and Family Violence Act*. The protection of JD is an important consideration.

I am told that there is a full non-contact domestic violence order in place which is not due to expire until 24 March 2028. The Local Court file number is 22501565.

By taking into account the seriousness of the offending, the sentence imposed, your history, your age and that of the victim and the victim's vulnerability, I consider that that order should be extended. I was originally going to extend it for a period of 5 years, however, I think that 3 years will be sufficient. Therefore, I order that the domestic violence order is extended for a period of an additional 3 years. So that order will now expire on 24 March 2031.

That means that until 24 March 2031, you must not contact JD at all, either directly or indirectly, including by telephone. You cannot be located anywhere where he is. If you happen to see him somewhere out when you are released, it is up to you to move away. That order is in force in the Northern Territory and everywhere in Australia. It is a criminal offence to breach that order and if you are found guilty, you could be sent to gaol, depending on the circumstances, for up to 5 years.

Do you understand that? All right. Was there anything arising?

MS PREECE: No, your Honour. May it please the court.

MS MARSHALL: Your Honour, just briefly, in respect to the time that Ms Smith has spent in custody, I just wish to confirm for the record, she has spent 16 months and 20 days, not 14 months in custody with the backdate being 4 May.

HER HONOUR: Yes. I withdraw what I said about the 14 months and I replace that with the 16 months, but the backdate, I confirm, is 4 May 2025. So that is the date of the commencement of the sentence. I am sorry if I skipped over that part.

MS MARSHALL: Thank you, your Honour.

HER HONOUR: I did absolutely intend to backdate it to that date. Thank you for that.

MS PREECE: Thank you, your Honour.

MS MARSHALL: Nothing further.

HER HONOUR: All right. Thank you for your assistance, counsel.

We will adjourn.
