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THE SUPREME COURT OF  
THE NORTHERN TERRITORY

SCC 22335206

THE KING

and

JEROME LACEY

(Sentence)

BURNS J

TRANSCRIPT OF PROCEEDINGS  
AT DARWIN ON FRIDAY 15 NOVEMBER 2024

Transcribed by:  
EPIQ

HIS HONOUR: Jerome Lacey, on 1 November this year, you entered a plea of guilty to one charge, alleging that on 9 September 2023 at Ramingining in the Northern Territory, you unlawfully caused serious harm to CD. That offence carries a maximum penalty of 14 years' imprisonment.

An agreed statement of facts was placed before the court. At the time of this offence, you were 27 years old. The victim in the matter was your domestic partner, CD, who was 22 years old. At the time of this offending, you and the victim had been in a domestic relationship for approximately three years.

On 9 September 2023, at about 5 pm, you and the victim were walking together at Ring Outstation with a third party, JG, walking behind you. You asked the victim to go buy cigarettes in town, which she refused to do. You and the victim then engaged in a verbal argument whilst you were walking by MG's house. You then struck the victim once to the face with a closed left fist to the chin with such force that the victim started to bleed from her mouth, and it was later ascertained that she had sustained a fracture to the left side of her lower jaw. You walked away from the victim while JG, who had witnessed the assault, went to help the victim, calling out for help. MG then came outside from her house and assisted.

At some point shortly thereafter, you accompanied the victim to the Ramingining clinic, where she was treated by a nurse. The victim could not open her mouth and had pain and swelling on the lower left side of her jaw, along with a laceration on her bottom gum. The nurse suspected that her jaw was fractured and, as such, a CareFlight was organised for the victim to receive further assessment by a specialist and also to undergo surgery at Royal Darwin Hospital.

You and the victim were calm together at the surgery and you admitted to the nurse that you had punched the victim. At Royal Darwin Hospital, the victim was assessed and it was found that she had suffered an oblique fracture through the parasymphyseal right mandible, extending to the root cavity of 31/41 without dental fracture and had also suffered an obliquely oriented moderately displaced fracture through the base of the left condylar process. The victim was treated by surgery under general anaesthetic for open reduction and internal fixation. Plates and screws were utilised in this surgery.

On 11 September 2023, police had a conversation with you, in which you made admissions to having become angry with the victim due to a number of frustrations that you said had occurred throughout that day, and having then punched the victim. You told police that you had punched her because she spat on you and pushed you in the face. That does not appear to have been supported by the eyewitness testimony and it has not been pressed on your behalf in these proceedings.

A Victim Impact Statement was obtained from the victim. She said that as a result of this assault, she felt sad, worried, in pain, she was crying lots and was worried because she was in the hospital and away from her family and home. She said that she did not want you to go to gaol because she loved you. She did, however, want a Domestic Violence Order for her protection. I note that that Victim

Impact Statement was signed on 31 October 2023, presumably, at a time when you were still in a continuing relationship with the victim.

In assessing the objective seriousness of this offence, I note that it is an offence which does not involve any element of intention or recklessness in terms of the causing of serious harm. The unlawful conduct which the prosecution relies on for the present offence is you punching the victim to the side of her face. That, of course, would constitute an assault. There is no doubt that you intended to punch the victim. However, the offence is not one which requires the prosecution to prove that you either intended to cause serious harm or, alternatively, that you were reckless as to causing serious harm. Nor, indeed, is there any mental element such as negligence involved. All that needs to be proved is that you engaged in unlawful conduct which, as a matter of fact, caused serious harm to the victim.

Having said that, in assessing the objective seriousness of this offence, I note that there was only one blow to the victim which was delivered by you. There must have been some degree or, indeed, significant degree of force involved in the punch which you delivered to the victim, taking into account the nature of the injury that she sustained.

It is difficult to assess whether there was any real provocation by the victim based upon the agreed statement of facts, because the statement of facts notes that there was an argument, but it says nothing further about the contents of the argument. As such, there is no real evidence of provocation by the victim directed towards you.

I do accept that the offending would have been unexpected by the victim and that, as such, she was not in a position to defend herself. She was also struck to the head, which is a vulnerable part of the body.

The injury was serious but it is not amongst the most serious category of injury that would fall under the rubric of serious injury for the purposes of the *Criminal Code*. Whilst, initially, you may have showed little concern for the victim's welfare, walking away from her immediately after the blow was struck, it is clear that, very quickly thereafter, you returned and you accompanied the victim to the clinic in order to ensure that she receive medical assistance.

I note also that you ultimately provided some assistance to the police in relation to the matter. I would assess the objective seriousness of this offence as on the border of the lower and mid-range of such offences.

You did not give evidence at your sentence hearing, but I was provided with some information about your background by your lawyer. There is also a limited amount of material contained in the s 103 assessment which I ordered.

Your lawyer has told me that you were born in Galiwinku in 1996. You are currently 28 years old. You were raised in Galiwinku by your mother and father and

spent most of your childhood there. You are one of six children and you have four younger brothers and one sister.

You completed primary school in Galiwinku school before going to boarding school in Townsville, Alice Springs and finally Kormilda College in Darwin, where you finished Year 12. You hold Certificates I and II in Land Management from the Charles Darwin University.

After finishing school, you worked for three years at Deltareef as a builder's labourer, where you gained skills in scaffolding, concreting and painting. After working at that organisation, you worked for five years at the ALPA store in Galiwinku. You have also spent some time working for Health in Galiwinku and for the Aboriginal Interpreter Service at Royal Darwin Hospital and in the Cowdy Ward.

You met the victim in around 2021 at a football carnival in Milingimbi. After meeting, you commenced a relationship and went to live at Ring Outstation. You have two children, aged 5 and 6, from a previous relationship, one living in Milingimbi and one living in Broome. You have limited contact with those children.

At Ramingining, you worked for Yalu Corporation as a liaison officer for Territory Families. You were suspended from that employment as a consequence of this offending. You then moved on to work for Learning on Country in Ramingining, where you, effectively, work as a teacher's aide, assisting in cultural programs for children relating to both the land and also language.

In around August this year, I am told that you moved to Galiwinku after you separated from CD. At Galiwinku, you have continued to work at the Learning on Country. You are supported by your parents and also your younger brothers, who are still at school.

I am told that you accept full responsibility for your actions and you acknowledge that what you did to the victim was wrong. You have been spoken to by your father in the wake of this incident, who has also brought home to you that what you did was wrong. And you told your lawyer that this made you feel considerable shame for what you did.

A number of testimonials were provided to me as part of the evidence on the sentence hearing. I received letters from CB of the Learning on Country program at Ramingining School, from IJ from the Learning on Country program at Galiwinku and from HW of the Yalu Aboriginal Corporation. All of those speak very highly of you and also speak of the shame which you have expressed for hurting your partner and your understanding as how serious this offence is.

When you were charged with this offence, you told your then-employer of the offence and you were stood down, but you accepted referral to an appropriate counselling program.

I am satisfied that you have a good work history and that you are somebody who has, in the past, worked to provide benefit to the various communities in which you have lived. You have, in particular, provided assistance of a positive nature in giving children an understanding of their culture and their country.

You have one matter which appears on your criminal history. That is an offence that was dealt with in the Galiwinku Local Court in August 2019. It is an offence of going armed in public. You were dealt with without conviction and placed on a good behaviour bond for a period of 12 months.

Firstly, it is clear from the penalty which was imposed that that must have been a relatively minor example of that type of offending. In addition to which, there is no suggestion in the material before me that you did not comply with the terms of the good behaviour bond that was imposed.

General deterrence is always an important sentencing consideration for offending of this nature. Mr Chandran is correct in his submissions that offences of violence, particularly within a domestic relationship, are far too common in this Territory and particularly in remote communities.

I do not think that specific deterrence is particularly significant in this case. I do not say that it is irrelevant, but I do not think that it has prominence as a sentencing consideration. That is because you are now 28 years and you have virtually no criminal history and certainly nothing of a similar nature recorded against you in the past.

I also take into account that you have now managed, in an appropriate way, the breakdown of the relationship with your former partner, who is the victim of the present offence. She now resides in a different community to the community in which you live.

Rehabilitation is an important sentencing consideration with regard to this matter. Whilst you were not a young adult at the time that this offence was committed, your good work history, your lack of a relevant criminal history and your age all speak of your very good prospects for rehabilitation. I do not consider that there is any significant risk and certainly not an acceptable risk of you committing further offences of domestic violence.

I note that there is no suggestion that any abuse of alcohol or illicit substances was involved in the commission of this offence. In one way, as the prosecutor submitted, that is relevant because it means that those matters are not before the court as an explanation for your offending conduct. On the other hand, it can give me greater confidence that this single loss of control is less likely to be repeated in the future.

I am satisfied that you are genuinely remorseful for what you did on this occasion. As I said, I am satisfied that you have good to very good prospects for rehabilitation. It is accepted, and I think rightly so, by Mr McCowan on your behalf,

that the offence calls for a term of imprisonment. The only issue is whether it is a term of imprisonment that should involve an element of full-time imprisonment.

I think that there are some unusual circumstances involved in this case. I do not say that they are exceptional circumstances but they are somewhat unusual, in the sense that there was only a single blow which was inflicted and that you are somebody with a minimal criminal history at 28 years of age and that you have a very significant history of undertaking creditable works in your communities.

For these reasons, I am satisfied that the requirements of sentencing will be met in this particular case by the imposition of a wholly suspended sentence. I note that you have spent 1 day in custody awaiting sentence, but I am not going to backdate the sentence by 1 day and order that it be partially suspended after the service of 1 day in custody.

I will take into account the 1 day that you have spent in custody in addition to your early plea of guilty in determining what reduction in sentence is justified with respect to both of those two matters.

My starting point in relation to this matter is a sentence of 3 years and 6 months. I am going to reduce that to 2 years and 10 months, taking into account your plea of guilty and also the fact that you have spent 1 day in custody.

I record a conviction with respect to the matter and you will be sentenced to 2 years and 10 months' imprisonment, commencing today, 15 November 2024, and expiring on 14 September 2027.

That sentence will be wholly suspended, and there will be an operational period of 2 years and 10 months from today, during which:

- 1) you must not commit another offence punishable on conviction by imprisonment and you must of good behaviour;
- 2) you must accept the supervision of a Probation and Parole officer and must obey all reasonable directions of such a person;
- 3) you are not to leave Elcho Island without the prior permission of a Probation and Parole officer except in case of medical emergency; and
- 4) you must, if found suitable, satisfactorily complete the family violence program in relation to domestic and family violence or any other program assessed as suitable as directed by a police officer.

In addition, there will be a Domestic Violence Order for a period of 12 months from today, prohibiting you from causing harm or attempting to cause harm to the protected person, CD, and also prohibiting you from intimidating, harassing or verbally abusing the protected person, CD.

Is there anything arising from that?

MR CHANDRAN: No, your Honour.

MR MCCOWAN: No, your Honour.

HIS HONOUR: All right. Thank you.

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