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| IN THE COUNTY COURT OF VICTORIA | ANONYMISED AND ADAPTED FOR EDUCATIONAL PURPOSES  |

AT GEELONG

CRIMINAL JURISDICTION

CR-ZZ-WRX

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| DIRECTOR OF PUBLIC PROSECUTIONS |  |
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| DEAN MEDWORTH (A PSEUDONYM) |  |

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| JUDGE: | HER HONOUR JUDGE GAYNOR |
| WHERE HELD: | Geelong |
| DATE OF HEARING: |  |
| DATE OF SENTENCE: | 20 September 2017 |
| CASE MAY BE CITED AS: | DPP v Medworth (a pseudonym) |
| MEDIUM NEUTRAL CITATION: | [2017] VCC DET |

REASONS FOR SENTENCE

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Subject:

Catchwords:

Legislation Cited:

Cases Cited:

Sentence:

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| APPEARANCES: | Counsel | Solicitors |
| For the Director of Public Prosecutions | Mr A. Beckket |  |
|  |  |  |
| For the Accused | Ms D. Fairbanks |  |

HER HONOUR:

1. Dean Medworth,[[1]](#footnote-1) you have pleaded guilty before me to one charge of affray and one charge of criminal damage. Essentially the scenario is that you and a group of friends were out drinking at a house in Geelong. The victims in this matter had also been drinking at a nightclub and then gone back to another private house in Geelong.
2. During the night, you and your friends received a phone call from the sister of one of your co-accused, saying that one of the other group, the victim group, had assaulted her. You and two others ran off down the road to look for the person complained of, but could not find him, and soon after a car full of what could only be described as your yobbo mates pulled up. You jumped in, and you all screeched around to the premises where the victim group was in Geelong.
3. Upon arrival, a fight started at the front, where one of the victims, Cody Fitzgibbon,[[2]](#footnote-2) was dragged outside and surrounded by you and your other friends, who started punching him until he was pulled inside by Hugh McLintoch,[[3]](#footnote-3) a member of the victim group. McLintoch, in doing this, received a punch in the lip and eye. He went inside and called police.
4. Toby Droop,[[4]](#footnote-4) who was the person complained of by your friend's sister, went outside and was punched by all of you, who yelled at him not to touch Mary,[[5]](#footnote-5) the sister. All five of you then entered the unit, where there the yelling and fighting continued, and your actions both outside and inside the unit underlie Charge 1 on the indictment, affray. You then flipped over a coffee table onto Toby Droop's legs, who was seated on the couch, and punched holes in the plaster walls. Your actions in behaving this way underlie Charge 2, criminal damage.
5. Eventually police arrived. Tim Wells,[[6]](#footnote-6) the first boy to go outside, was taken to hospital, having sustained a cut to his head, bruising and abrasions to his left eye. Mr Fitzgibbon sustained bruising and abrasion to his right eye, and Mr McLintoch, as I have said, sustained a swollen lip. The victims refused to cooperate with police, and no victim impact statements were filed.
6. You were arrested at your home later that morning and were cooperative in your record of interview, describing what you had done and saying very honestly to police that of all of them, your temper was probably the worst, that you were drunk and yelling and carrying on, that you got a whack in the face when coming in the front door, which set you off, and you flipped the coffee table and punched holes in the wall and started abusing them.
7. The matter settled at committal mention stage, and it is agreed that an early plea of guilty was entered. You have no prior convictions, and I now turn to your personal circumstances.
8. You are now 19, and were 19 at the time of this offending. You are the oldest of three boys, and apparently around the time of this offending, your parents had separated rather unexpectedly. This apparently was extremely upsetting for you, and you began drinking to excess, and indeed it is quite clear to everyone, including you, that you were drunk on this night. You have grown up in the Geelong area, you completed Year 12 VCAL specialising in boiler-making, and since leaving school have been employed as an apprentice boilermaker. I received an extremely positive report from your employer who describes you as a person who demonstrated a strong work ethic, was considered a valuable employee who had the respect of other staff, who went above and beyond his duty to ensure manufacturing deadlines were met, and had mentored and supported younger staff. Your employer described your offending as "out of character".
9. In any event, you told a psychologist, whose report dated 8 May was tendered on the plea, that you felt upset about the separation last year, that on the night of these offences your father had raised a notion that your mother had become involved in another relationship, which caused you a great deal of distress, that you had promptly left home and started drinking with friends. You described your involvement in this offending as a big wake-up call, and realised you had possibly started developing an alcohol problem.
10. You self-referred to an Alcohol and Drug Centre, where you have attended for eight sessions, and I received a report from a clinician
upon whom you have been reporting. You were described as a person who had attended regularly and engaged well, and you have worked out an individual treatment plan, involving you only purchasing your alcohol in packs of no more than six stubbies, and resolving to never drink more than six stubbies or cans on a single occasion. You were screened for an alcohol use disorders identification test, and returned a score which indicated a very high risk of drinking behaviours, and it would appear that you were on the verge of developing a serious dependence on alcohol, which I am satisfied that you have now attended to.
11. I also received references from your football coach. You were described as a person who was quiet around adults, although often a leader. You were described as a gifted player, and very supportive of your fellow team members. Finally, I received a letter from
the student wellbeing officer at a TAFE, where you are undertaking the academic requirements of your apprenticeship, and have arranged in fact for an accelerated program, so that you will finish that in three years.
12. The student wellbeing officer said he found you mature, and a person who normally handled stressful and demanding situations with a mature and balanced attitude, and believed that you had learned from your mistake. He was concerned that if you received a conviction at this point in time, this would hinder your ability in the future to progress as a qualified boilermaker "into specific vocational areas such as the mining and gas-related fields".
13. It appears you have no problems with drugs. You expressed remorse to the psychologist, describing your behaviour as stupid, and that some of the changes you have made, in addition to seeking treatment for your alcohol problem, were that you were back playing football, you were "off the grog", working and doing overtime, had changed your friends, and saving money. I am satisfied you have excellent prospects of rehabilitation. You come from a strong family, I note that your girlfriend, brothers and father attended court in support. You have never been in trouble before, you were cooperative with police. There was a situation of emotional distress in your life surrounding your parents' separation, which had led you to escalating your drinking. I am satisfied that off your own back you have recognised this, gone off and sought assistance, and this is very much to your credit. I accept that you are remorseful, and I think the chances of you coming back before this court, given your good employment and the support you enjoy, are very low indeed.
14. I note that most of your co-accused have been dealt with by way of non-conviction orders. I note that most of them have been dealt with in the children's court, so that would be expected, but a major co-accused in this matter, Mr Garamon,[[7]](#footnote-7) who could be said to be a prime mover in this matter, was dealt with by way of a non-conviction fine, and I propose to do the same with you. It is really important that it is recognised that you are a young offender for the purpose of the *Sentencing Act*, and rehabilitation is very important when a young bloke like you is on the threshold of his career. But this is a one-off opportunity, all right? Can you stand up please?
15. On each of the charges, I am going to fine you $700. That is a total of $1,400. It will be without conviction, and I will give you six months to pay. If you have got any brains, Mr Medworth, you will pay it off on a weekly basis. I accept that you are facing one more charge than Mr Garamon, but in my view he played a more dominant role in the offending.
16. I make a compensation order in the sum of $200. I know there is an application pursuant to s.464ZF of the *Crimes Act*. I am not inclined to grant it at this stage. I do not know that it would have helped things anyway, and because you were so cooperative with police, it does not seem to me, that you would need to go on the database. All right? Have a seat.
17. Pursuant to s.6AAA, had you pleaded not guilty, I would have sentenced you to a community corrections order with conviction, and a lot of work hours, which you would not have enjoyed. Hopefully I will never see you again, Mr Medworth, and hopefully you just get on with your life and keep turning into the productive young bloke you are going to be, that you should be. Have things settled down with Mum?
18. OFFENDER: Yep.
19. HER HONOUR: All right. Are you finished with your drug and alcohol counselling?
20. OFFENDER: Yep.
21. HER HONOUR: Do you reckon you can stick to it?
22. OFFENDER: Yeah.
23. HER HONOUR: Can you stand up please? You need to keep an eye on it, okay?
24. OFFENDER: Yeah, all right.
25. HER HONOUR: You need to understand that uncontrolled binge drinking on the weekend - it is just as much a sign of alcoholism as someone who is off their tree every day of the week, you know? And it is a really bad thing if a young bloke gets into it. You need to stave it off, all right? You can have a seat, thank you.
26. Yes, I have ordered that you pay Dan Mitchell the sum of $200.
27. (At this stage the court proceeded with another matter.)

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1. Dean Medworth is a pseudonym. [↑](#footnote-ref-1)
2. Cody Fitzgibbon is a pseudonym. [↑](#footnote-ref-2)
3. Hugh McLintoch is a pseudonym. [↑](#footnote-ref-3)
4. Toby Droop is a pseudonym. [↑](#footnote-ref-4)
5. Mary is a pseudonym. [↑](#footnote-ref-5)
6. Tim Wells is a pseudonym. [↑](#footnote-ref-6)
7. Mr Garamon is a pseudonym. [↑](#footnote-ref-7)