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THE SUPREME COURT OF  
THE NORTHERN TERRITORY

SCC 21918430

THE QUEEN

and

DENNIS EBATARINJA

(Sentence)

MILDREN AJ

TRANSCRIPT OF PROCEEDINGS

AT ALICE SPRINGS ON WEDNESDAY 2 OCTOBER 2019

Transcribed by:  
EPIQ

HIS HONOUR: Mr Dennis Ebatarinja, I am now going to tell you what the sentence of the court is.

I heard what happened on Tuesday 7 May. You were drinking all that grog with family at Trucking Yards Camp. Later that night, you went with your partner, Natasha, to the Coles complex, Bath Street. Your partner, Natasha, went shopping but you stayed around the complex until she came back.

Then you went to the taxi rank with your partner. You were going to catch a taxi home to Trucking Yards. But you had a big machete hidden in your trouser leg and while you were waiting, Benjamin Hayes, came up to you.

Benjamin Hayes was also drunk.

You were smoking a cigarette and Mr Hayes asked you for one. Your partner wanted to give him the cigarette but you got angry and you told her, "No, this guy's my enemy." Then Mr Hayes put his hands up to you and said, "Right-o, let's have a go."

Then you took that machete out and you swung it at Mr Hayes, which hit him on the left forearm. That made the left forearm break in two places and to bleed a lot. Mr Hayes ran away and he stopped a policeman in a police car.

You knew you did a wrong thing, because you ran away straight away. You tried to hide that machete, because you threw it on the roof, and you took off your beanie and your shirt and you threw them on the ground. You continued to run up Whittaker Street. Some police came and they helped Mr Hayes until the ambulance came. Mr Hayes then went to the Alice Springs Hospital.

Some police were looking out for where you were and they found you in Whittaker Street at about 9:20 pm. You were told you did not have to say anything, but you did say to those police, "I hope he's all right. I don't know but that man was been looking for trouble."

Then you were taken to the Alice Springs Police Station and you were later spoken to by those policemen and you told them what you had done. One of the things you said to those policemen was this: "I struck him once with a little knife. He was going to get more family for me. I was walking home to Trucking Yards. I surrendered anyway, that's it."

Well, you did not strike him once with a little knife, you struck him hard with a big knife. I do not know what made you think that he was going to go and get family to come and punish you. He was certainly going to get the police.

Mr Hayes was taken to the hospital and they stopped all the bleeding and they found out about those two broken bones in the wrist. There are tendons in the wrist that operate the fingers. There are also nerves that make feeling, and then there is the artery, in which there is blood. Those nerves and those arteries were broken.

On 8 May he had temporary surgery to that left arm and then he was taken down to Adelaide for more proper treatment. They operated on him and they fixed up the tendon, the nerves, the arteries and they reset the fractures in the arms. If Mr Hayes had not been able to get treatment, he would have died.

So you see, Mr Ebatarinja, this is a very serious offence. I could send you away for 14 years for this, but I am not going to do that. I must send you away for at least a year because the law says so. That is because you have a lot of very bad previous convictions.

You have been before this court before seven times for aggravated assault, two times for causing serious harm. You have been given domestic violence orders and you have breached them. You have been given bail and you breached that. You have been given a suspended sentence and you have breached that, not once but lots of times. So you are not a good person.

You were so drunk that night that when you were tested, you had a high reading; 0.172. That means you were very drunk. Mr Hayes still has troubles. He is worried about his hand. He does not know how long it is going to take to get fixed up. And he is really angry at you.

One thing I have to think about is the fact that you are now 42 years old. You have got a family, young children. Are you going to settle down? Are you going to behave yourself? What do I know about your work?

When you finished up school, you worked as a labourer through CDEP. You have also helped looking after the cemetery at Hermannsburg. You also did some gardening work there. But you do not seem to be working now, from what I know. Maybe a long time since you have been in work.

I know you were born in Alice Springs. You are a Western Arrernte man. You were brought up in Hermannsburg and Akanta Station. When you were a little boy, you were raised by your father's family. Both your mother and your father had big problems with alcohol and there was also violence in their home.

Your father was stabbed to death when you were only at primary school. You attended school at either Hermannsburg or Kings Creek. You finished when you were only 13 or 14. You started drinking when you were 15. You had a little daughter when you were quite young. You lost that little daughter, and that made you drink even more.

You have been living at Timber Creek with your current partner. You want to go back there and live with your partner and look after your children, especially your new baby.

What that means is I have to think about whether you are going to change your way; give up alcohol, not beat people up. There are only two things that make me

think maybe you will. One is you are now 42 and it is about time you grew up. And the other is you have this little child, only born two days ago.

Mr Ebatarinja, you are going to get a long sentence because I have to let everybody else know that you cannot do this sort of thing, what you did; and if you do, you are going to gaol for a long time. And you have to know that this is not good behaviour.

Your lawyer told me about the trouble in the families, which has been going on for a long time. And how a brother of Mr Hayes, had a big peanut knife and he threatened to stab you when they came to your mother's house not long ago, and how it has been this longstanding feud between your families.

You are not allowed to use this kind of force just because you do not like somebody else's family. I guess it provides an explanation for what you did, but it does not excuse it.

Mr Ebatarinja, I find the facts proved. You are convicted. But for your plea of guilty, I would have given you a sentence of 4 years, but because you have pleaded guilty at an early time and I think you are little sorry for what you did to Mr Hayes, I am going to reduce that sentence to 3 years and 3 months. I fix a non-parole period of 20 months.

That means, Mr Ebatarinja, you have got to stay in gaol for 3 years and 3 months, but after 20 months, maybe you will be allowed to go on parole; maybe. That will be up to the Parole Board. If you behave yourself in gaol and if you do the courses that you want to do.

Your lawyer tells me you want to do the family violence course and you also want to do the alcohol program and that is very good. That helps me to work out how long to fix the non-parole period, and I fixed it at the minimum, or very nearly the minimum.

That sentence and non-parole period, I am going to backdate to 7 May 2019 because you have been in gaol since then. So that means that 20 months non-parole period starts from 7 May 2019, not from today.

That machete is forfeited to the Crown. That means the police will keep that machete and it will be destroyed.

Anything arising?

MS COLLINS: No, your Honour.

HIS HONOUR: Very well, court is adjourned.

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