

Mr Bramich, you have pleaded guilty to one count of assault and two offences relating to the injury and destruction of property.

You committed these offences on 14 January 2018. The circumstances were that for some time the complainant, your neighbour, had been in the habit of playing music loudly from his residential unit, late at night. He often did this from his rooftop. Understandably, this resulted in a considerable nuisance to you and your family. You live with your partner and two stepchildren aged 14 and nine. You had complained about this behaviour to the complainant and to the police on a number of occasions, but this had not caused him to desist from this behaviour.

The offences occurred at 6 am in the morning. The complainant and some friends had arrived home after a night out and were playing music loudly from the rooftop. This disturbed not only you, but also a number of neighbours. They had come outside to find out what was going on. You went to the complainant's residence to confront him and demand that he turn down the music. When you arrived, you banged loudly on the door but there was no answer. You then decided to enter the unit without permission. At that point, your only intention was to have the music turned down. As you entered the unit, you knocked a screen door off its hinges, thereby committing the offence of injure property. When you got inside and saw the complainant, you spontaneously attacked him. You grabbed the front of his shirt and punched him four times to the face. You pushed him into a window, causing it to break. You then grabbed him around the neck as if placing him in a headlock and applied pressure to his neck. You did this with considerable force. You then desisted from the attack and left the unit.

The complainant suffered some bruising and other transient injury but fortunately was otherwise unharmed. He has not provided a victim impact statement.

Your explanation of your conduct is that you did not go to, or enter the unit with the intention of assaulting this man, but that when you saw him, your frustration and anger took over. I accept that the circumstances you have described did amount to actual provocation, and that you committed the assault spontaneously and in the heat of the moment. However, what you did constituted a serious crime. After having entered his home without invitation, you brutally assaulted him. You punched him to the head and applied pressure to his neck. Both of these actions are dangerous and create a risk of the infliction of serious injury or worse. You assaulted him in his home and in front of others. This must have been a demeaning and degrading experience for him. Although you were provoked by his actions, and had confronted him on prior occasions, it is clear that on this occasion you did not give him the opportunity to turn down the music. You certainly did not deal with this in an appropriate way at all.

You are 28 years of age. You have no prior convictions apart from traffic infringements. You have, however, been subsequently dealt with by a court for a common assault. You are in regular employment. I accept your counsel's submission that your conduct on this occasion was out of character.

The objective seriousness of the assault does require the imposition of a sentence of imprisonment. General deterrence is a significant sentencing consideration. However, taking into account the mitigating circumstances, the plea of guilty and your prior good character, it

is, in my opinion, appropriate to offer you an opportunity to avoid actually serving the sentence which I intend to impose. I will do this by wholly suspending the sentence. Provided you comply with the conditions of suspension, you will not have to serve that sentence. However, if you breach the conditions of suspension, in particular by committing another offence punishable by imprisonment, then in all probability you will have to serve the sentence.

Accordingly, the orders I make are as follows:

- 1 You are convicted of the crime and the offences to which you have pleaded guilty.
- 2 You are sentenced to a global term of 8 months' imprisonment, which will be wholly suspended for a period of 12 months on condition that you do not commit another offence punishable by imprisonment during that period.
- 3 I make a compensation order in favour of Brock Guest in the sum of \$280.