

Mr Jenkins has pleaded guilty to two counts of assault and one count of wounding. The circumstances in which these crimes were committed took place on 13 July 2016. Six days earlier, the complainant and the defendant and his brother were involved in a traffic incident. The complainant failed to give way to the defendant's vehicle, which at that time was being driven by his brother, with the defendant also in the vehicle. The defendant's brother had to apply his brakes in order to avoid a collision. There was some verbal interchange between the men after that incident, and the complainant yelled something at them and then drove off, leaving the area. I am told by the defendant's counsel that the defendant and his brother felt angry and incensed by the complainant dealing with the matter in that way.

The defendant and his brother were driving their vehicle on 13 July 2016 when they unexpectedly observed the complainant driving his vehicle. They decided to confront him, and followed him and flashed their lights at him. Eventually, the complainant stopped his vehicle. The defendant got out of the car, went up to the complainant's vehicle and punched him in the face on three occasions, through, I infer, the driver's side window. As he did this, the defendant said words to the complainant to the effect of, "you fucking cunt, you pulled out in front of us last week". The defendant then hit the complainant a fourth time. Those punches caused a cut to the complainant's forehead and a bleeding nose. That assault is the subject of count 1.

As the defendant was walking back to his brother's vehicle, the complainant reversed his van into that car. It was put during the prosecution facts, that the complainant said that he did this in order to mark the car so that the defendant could be later identified. I find that explanation mystifying. I would have thought a better method of identification would simply have been to take the number plate. I suspect that the complainant was angry. Justifiably angry, I should say, at having been assaulted, and then retaliated in a manner that was inappropriate and probably unlawful. Having said that, what occurred then, the damage to the brother's car, did not justify what followed.

The two men, the defendant and his brother, followed the complainant. The defendant says that the intention was to confront the complainant and demand compensation for the damage to the brother's vehicle. Whether that is the case or not, that plan is not how things eventuated.

They followed the complainant to the house of the complainant's friend and his family. The complainant had gone there to seek refuge, realising that he was being followed by these men. When both vehicles arrived at that house, the defendant and his brother alighted from their vehicle. The defendant was holding a metal pipe. I am satisfied that, at that point, he intended to use that metal pipe as a weapon. Whether he was intending to inflict violence is another matter, but in the end that is what occurred.

The complainant had come outside the house. The defendant said something to the effect of, "I'm gunna kill you, you cunt." This would seem to indicate that, at that point, the defendant was angry and intending to inflict violence. He then approached the complainant and struck him to the top of the head with the pipe. He continued to strike at the complainant with the pipe, and the complainant fell to the ground. The complainant, when he was on the ground, was kicking out in an attempt to defend himself, but the attack continued. The friend had become involved in this, and eventually members of the friend's family, including his wife and

20 year old son, also came out in an attempt to get between the men, and that was to some effect.

At some point, the complainant managed to get up off the ground and retrieve his keys from the ignition of his vehicle, which the defendant's brother was also attempting to obtain. During the course of that part of the exchange, the defendant again approached the complainant and hit him to the top of the head with the pipe. The blows to the top of the head with the pipe caused a laceration and it is those acts which constitute count 2 on the indictment.

Towards the end of the incident, the friend had been successful in diffusing the situation, and the complainant started to walk back to the house. As he did so, the defendant walked in front of him, said to him, "you can have another one" and punched him to the head with his right fist, and that would seem to constitute count 3 on the indictment.

All of these acts occurred in the context of an ongoing physical exchange. It is clear to me that the defendant and his brother were the aggressors in that exchange, although I am sure the complainant was also attempting to defend himself.

As a result of the crimes, the complainant suffered injuries which were a laceration to his forehead between his eyes which was repaired with five stitches, a graze above his right eye on his forehead, and a laceration to the top of his head which was repaired with five staples. The hospital indicated that he was expected to make a complete recovery. There is nothing in the Crown facts which would suggest that he has not physically recovered from his injuries.

I have been provided with a victim impact statement which indicates that, although he has recovered from his physical injuries, the complainant still has ongoing psychological sequelae as a result of these assaults. I said he has recovered from his physical injury, but the victim impact statement refers to some permanent scarring which gets irritated and itchy. The psychological effects are hypervigilance, ongoing anxiety and concern that he may come across the defendant. Those effects, in my view, are completely understandable and what would be expected as a result of the commission of violent crime of this nature. I have regard also to the potential for there to have been impact, particularly of a psychological nature on Mr Hallam and his family. This was an unexpected and frightening set of events. It was a violent confrontation, and I am sure that they were affected by it and there is potential for ongoing psychological impact.

The defendant's brother pleaded guilty some time ago to one count of assault and one count of wounding, arising out of his role in these events. He was sentenced by Porter AJ on 19 December 2017 to 12 months' imprisonment, the execution of which was wholly suspended on condition that he perform some community service.

There is a considerable distinction to be made between the culpability and circumstances of the defendant's brother and the defendant. The defendant is 32 years of age. He has a very significant criminal history which commenced when he was a youth and has continued into his adult years. He has been sentenced to imprisonment on a number of occasions. The most recent occasion was in New South Wales, where he received a sentence of imprisonment of three years for an offence of robbery while armed with an offensive weapon. He has committed a variety of other crimes, both in New South Wales and here, many of them crimes of dishonesty. They indicate, at the very least, a general disregard and disrespect for the law and a refusal to be bound by the law. Of course, the crime for which he was sentenced in New

South Wales involved violence with the use of a weapon and this has significance in relation to the circumstances of these crimes.

The defendant's brother had no prior convictions of significance. He pleaded guilty to the charges. It is clear that he had a lesser role in relation to these crimes. He was not originally armed with a weapon, although he did come into possession of the pipe during the course of the confrontation. He did not directly inflict the same amount of violence as that which was inflicted by the defendant. He is younger, and I have already indicated has a different background, in particular, a lack of prior convictions.

Apart from the defendant's criminal history, I have been told something of his background. He had some difficulties as a child. He was diagnosed with ADHD. He was educated to grade 10 standard, he has had a problem with drugs but, despite this, does have something of an industrial record. A significant aspect of the defendant's history though is his history of criminal offending. I do not see in this case that the defendant has made any significant decision to reform or rehabilitate. As the prosecutor has pointed out, he has been sentenced for crimes committed after he committed these crimes, and was placed on bail in respect of these crimes. He has pleaded guilty. He should be given credit for the utilitarian benefit of the plea of guilty but I do not regard it as indicating or arising from remorse or being some form of indication of a decision to engage in a process of rehabilitation. However, he should be given benefit because it has avoided the need for a trial and avoided the need for the complainant and the others involved in this crime to give evidence.

I regard this as a serious case of assault and wounding. As the prosecutor has pointed out, it involved the use of a weapon. It arose out of a traffic interaction but, effectively, became an act of revenge and retaliation. The violence was brutal. It was inflicted without significant or immediate provocation. Just as the complainant could have taken the number plate of the vehicle in which the defendant was, and had the matter dealt with in a law abiding way, so could the defendant and his brother have done exactly the same thing in relation to the complainant after he had reversed into their car. This was a case of two men who decided to seek revenge for what they regarded as a wrong done to them by inflicting violence with the use of a weapon.

The violence that was inflicted was brutal. The weapon was a steel pipe, which was used to hit another man over the head on a number of occasions. It did cause some injury. Fortunately, this was not injury which was permanent or had serious ongoing consequences, but obviously the potential was there to cause much more harm than was actually caused. Those circumstances alone require an emphasis on general deterrence.

The defendant made the decision to persist with following the complainant's vehicle. He made the decision to use a weapon, and to administer violence, despite having been the subject of a variety of sentencing orders in the past. Clearly, those orders did not deter him from making the decisions that he made on the day in question. That would indicate that there is also a need to emphasise the principle of personal deterrence in respect of the sentence.

In my view, the only appropriate sentence is a significant sentence of imprisonment. I will make provision for early release on parole, although I am satisfied that it is appropriate, having regard to the circumstances of the crime and the need to emphasise personal and general deterrence, that the defendant should be required to serve a custodial component of the sentence that reflects those factors.

Mr Jenkins is convicted of the three crimes. I impose a global sentence of two years and six months' imprisonment. That sentence will be backdated to 26 June 2018. I make an order that he not be eligible for release on parole until he has served 18 months of that sentence.