

Mr Shaw, the defendant, has pleaded guilty to one count of perverting justice. I am also dealing with his pleas of guilty to 20 summary charges of breaching a family violence order or breaching an interim family violence order. These offences constitute a course of conduct engaged in between 10 April 2018 and 22 August 2018. They involve offending in relation to the defendant's then partner, Jillian Sargison. The defendant was 26 years old at the time; the complainant was 33. They had begun a relationship in January 2017 and lived together between that time and May 2018 with the exception of periods when the defendant was in prison. The background to the offending is that on 7 April 2018, the defendant was arrested on charges including assault, destroying property and breaching a restraint order. The complainant in those matters was Ms Sargison. The offences were alleged to have been committed between 4 and 7 April 2018 at which time there was a restraint order in place against the defendant for the protection of the complainant. Although the complainant did not make a statutory declaration in relation to those matters, police had handwritten notes of conversations with her. There was photographic evidence, evidence from the complainant's mother and stepfather and some corroborative evidence from other police officers. On 9 April 2018, the defendant appeared in the Magistrates Court on these charges. He applied for bail, but it was refused. An interim family violence order was made for the protection of the complainant. Conditions of that order were that he not directly or indirectly threaten, abuse or assault her, and that he not be within 100 metres of, or contact her directly or indirectly, including by any form of electronic or other communication. To continue with the history of those proceedings, the defendant pleaded not guilty and the charges were heard on two dates in May 2018. The complainant gave evidence and was cross-examined. On 14 June 2018 the defendant was found guilty of six charges of assault, two of destroying property and nine of breaching the restraint order. A number of other charges were dismissed because no evidence was given during the hearing by the complainant of the offence alleged. Otherwise the magistrate was satisfied on the whole of the evidence. On 27 June 2018 the defendant was sentenced to seven months' imprisonment backdated to 7 April. The perverting justice charge relates to the period 10 April 2018 to 2 June 2018. The count alleges that the defendant contacted the complainant directly and indirectly by letter and phone in order to prevent or dissuade her from giving evidence in the proceedings. Notwithstanding the terms of the particulars, with the assent of counsel for the defendant the Crown facts encompass attempts to contact the complainant through third parties. In fact, as it will emerge, much of the relevant conduct is of that type. The facts reveal 23 instances of attempted contact or actual contact. Fourteen of those involved telephone conversations between the defendant in prison and his mother, his father and a friend. The respective totals are eight, three and three. In general terms, the defendant was asking for contact to be made in order to dissuade the complainant from giving evidence. On 13 April the defendant's father revealed that he had spoken to the complainant. After three more telephone calls of a similar nature to his parents, direct contact with the complainant started on 16 April and ended on 2 June with a letter. There were direct telephone conversations with the complainant on six occasions, and three letters sent to the complainant's home address. During the phone calls, all of which were recorded on the Arunta system, the defendant used a false name when speaking about the complainant, and called her a false name when speaking to her. No actual threats were involved. Much of it was in terms of requests to get the complainant to tell the truth and to stop telling lies. He said he loved her. The letters were addressed by the defendant to himself but were intended to be read by the complainant. In those, letters he spoke of the complainant contacting the court to say she lied, so "I'll get out and then we can go." Another spoke of his love for her. They were all intercepted by prison authorities. As is apparent, the complainant was not dissuaded from

giving evidence and it is not asserted that the lack of evidence from the complainant, which led to some of the charges being dismissed, was as a result of any actions on the part of the defendant. Some of the summary offences cover part of the period referred to in the indictment; that part being 15 April 2018 to 26 May 2018. From that period ten charges arose, involving 15 direct contacts with the complainant. The period from 15 July to 22 August gave rise to a further ten charges which involve 17 direct contacts. All breaches are by making contact with or threatening the complainant. Overall, there were nine calls in which threats were made, almost exclusively in the second period I have identified. They are the more serious breaches of what was then a family violence order, as they involved direct threats of violence to the complainant and her family, and frequent and highly offensive abuse. Things seemed to escalate from 31 July. Much of the threatening language seems to have been motivated by obsession and jealousy as to whether the complainant was seeing another man. For instance, the defendant threatened the complainant by saying if she was not honest with him he would smash her head in, calling her a dog. The theme of trying to find out if another man was on the scene continued. In further calls, frequent threats were made to punch the complainant so that she would tell him what was going on. He threatened hospitalisation. He often called her a "dog" and a "cunt". The more vitriolic conduct is illustrated by an outburst in the last of four calls on 5 August. Amongst a lot of abuse and aggressive language, the defendant said the complainant should wait until he got out; she would listen then, adding "I'll punch the fucking shit clean out of you, you fucking dog". After further offensive name calling, he said he knew where her family lived and would terrorise everybody until he found her. The call ended with "You won't fuckin listen to me, you won't do as you're told cunt, I'll punch the fuck out of you you'll start listening." The complainant reported the conduct to police on 21 July and again in 26 August. She declined to make a victim impact statement, but expressed fear and concern when reporting the matters. She said she had told the defendant several times to leave her alone.

The defendant is now 28 years old. He has a lengthy record of offending, some of it directly relevant to the present offences. In July 2010, he was sentenced to two years' imprisonment on a charge of aggravated robbery, six months of that sentence was suspended on conditions for two years and he was given parole eligibility after nine months. On 4 December 2013 on a charge of assault, the suspended part of the earlier sentence was activated and he was sentenced to eight months' imprisonment cumulative. That assault did not involve domestic violence. However, on 8 May 2014, on a charge of assaulting a former partner, he was sentenced to 10 months' imprisonment cumulative to sentences he was serving or liable to serve. In November 2015, for a breach of an interim family violence order, he was sentenced to 90 days' imprisonment, half of which was suspended on conditions. The present offending is not his first in relation to this complainant. In March 2018, he was sentenced to 99 days' imprisonment backdated, for an assault in late October 2017 by grabbing the complainant, pulling her by the hair and striking her to the body. Then followed the offending in April 2018. Since August 2018 the defendant has served further terms of imprisonment for a variety of offences including breaches of the family violence order by contacting the complainant and breaches of bail, those things pre-dating the conduct I am dealing with. There has been offending since these matters, but it essentially relates to bail breaches, mostly I am told, caused by difficulties with electronic monitoring compliance, exacerbated by lack of stable accommodation. Counsel are agreed that as of today the defendant has spent nine months and 27 days in custody unaccounted for, the last period of which starts on 27 April 2020. All but 21 days of the total are related to the present matters. The 21 days pre-dated this offending. That is a period which does not seem to have been taken into account in any sentencing process since then, and it is appropriate that I do so. The balance of the period was served in four separate periods explained by the grant,

revocation and reinstatement of bail. As to the defendant's background, in the main, although his family travelled widely, he grew up in Tasmania. For some reason he started to offend when he was about 13 years old, as a result of which he was placed in State care. Most regrettably, while in care he was sexually abused. This was not revealed until more recently, and he is now pursuing a compensation claim. The offending that saw him put into State care might not be capable of ready explanation, but the nature and extent of his offending since then might have some foundation in that unfortunate history. He acknowledges having spent most of his adult life in prison. He does not assert that alcohol or drug addiction have any significance in his history so as to provide some explanation. During the times he has been in custody he has completed various trade and personal improvement courses including an anger management course. When he left school at a very early age he found employment which lasted for two years, but ended when the available work stopped. At other times he has been able to find employment, but generally has struggled to gain stability in his life. Of significance is the fact that over recent times his mental health has come under scrutiny. During his period in custody on these matters, he suffered psychotic persecutory delusions. He has been diagnosed with a personality disorder. On 22 July 2020 treatment under the *Mental Health Act 2013* was authorised, and on 19 August 2020 a treatment order was made. That expires on 18 February 2021. It requires him to take antipsychotic, mood stabilising and relaxant medications. There seems to be a fair inference that, at least over recent years, he has been unwell when in the community. His mental health is relevant by way of background, but no more than that, there being no material before me to justify any different approach to it. However, the diagnosis and treatment order is particularly relevant to his rehabilitation. I note he is now eligible for a disability pension as a result of the diagnosis.

In terms of the relevant factors, general deterrence and denunciation are prominent. Although it is relevant if the attempts fail, as in this case, the crime of perverting the course of justice is always a serious matter because of the intention to undermine and interfere with the administration of justice. It is usually met with imprisonment. Domestic violence is a matter of considerable concern within the community. Persons who allege that they are the victim of such violence are entitled to the protection of the law against pressure from alleged perpetrators to change or withdraw evidence. This was a concerted effort by the application of emotional pressure to manipulate the complainant to do as the defendant wanted in relation to her evidence. Further, family violence orders are designed to protect vulnerable people within relationships. They are put in place for a good reason and non-compliance must be viewed very seriously. The defendant has shown complete disregard for the relevant orders on this and on previous occasions. His contempt for the orders is highlighted by the fact that he knew his telephone calls were being recorded. The behaviour towards the complainant was controlling and unfair to say the least, and the later frequent haranguing was highly aggressive, demeaning and hurtful. In his favour, I take into account the pleas of guilty which, although not entered at an early stage by any measure, are of value. As to the timing, negotiations obviously had to take place given the number of summary charges he was originally facing, many of which have been dismissed largely as they are subsumed within the indictable matter. However, the defendant has expressed no remorse nor been apologetic, and I am not satisfied the pleas are evidence of those things. I also take into account in his favour that there seems to have been no attempts at contact, or other breaches of the order more recently, and that includes periods when he was not in custody. That relates to specific deterrence and also to his prospects of rehabilitation. Lastly, I bear in mind the need to have regard to the total effect of a sentence in respect of multiple offences. Given the course of conduct, I will impose a global penalty.

Mr Shaw, I have set out what I see to be the relevant factors in your case. As I have explained, perverting justice is generally a serious matter. The crime covers any acts or omissions done with intention to pervert justice. This crime was committed in a domestic violence context. Attempting to stop people from doing such things is important. Deterrence is also important in your case, given your prior offending history. You have shown complete disregard for court orders and for the respect and dignity of a person with whom you were in a relationship. Your behaviour towards her was disgraceful. There are some prospects of your rehabilitation and I will make provision for parole. I have noted the time you have been in custody to be taken into account, but I think in any event parole eligibility of less than the maximum is justified in the circumstances of your history and this offending. You are convicted of all matters and sentenced to 16 months' imprisonment to commence on 8 November 2019. I order that you not be eligible for parole until you have served 10 months.

I direct these offences be recorded as family violence offences. I am satisfied I should revoke the family violence order made 19 November 2019, and I make a further order pursuant to s 36 of the *Family Violence Act*. The terms and conditions of that order will be the same as those numbered 1 to 11 in the revoked order, and the order will be in force for a period of thirty months.