

Stephen Burton, you plead guilty to being armed in public. I also agreed to deal with your plea of guilty to summary offences: two counts of threatening a police officer, one count of resisting a police officer and one count of unlawfully possessing a dangerous article.

At about 7.30 pm on 1 December 2019 you were seen outside your house in Invermay drinking from a bottle of vodka, with two large knives tucked into the back of your trousers. The police were called. You then began walking away from your home and through Invermay. You were dressed in black. Your behaviour caused alarm to members of the public. About 15 minutes later the police received a series of calls from concerned members of the public complaining that you were walking around near Aurora Stadium, intoxicated and brandishing large knives. You approached a group of three young people consisting of one young man and his two female friends. You told them that you were a police officer suffering from post-traumatic stress disorder and you wanted to kill yourself. The girls ran away but the young man, in an attempt to disarm you, told you that if you gave him the knives he would kill you. You threw two large knives on the ground and produced two other knives which you threw down. You moved towards him, and screamed at him to stab you. By this time the police arrived and the young man walked away. What followed was a bizarre exchange across a gated fence during which you repeatedly demanded that the police give you back your bottle of vodka. You threatened the three police officers who were near you that they would be “fucking dead” unless the bottle was handed over. You produced yet another knife and threatened the police officers with it from the other side of the fence. OC spray was used. After numerous requests you dropped the knife you had been holding. Four police officers unlocked the gate, and approached to handcuff you, but you resisted by pulling your arms away and struggling. Once you were handcuffed, yet another knife was located concealed in a sheath under your clothing. You were taken to the police station where your bizarre behaviour continued.

You are aged 45. You are married but separated from your wife in 2017. You have had limited contact with your children since then. You are currently living with your mother in Invermay. It is in your favour that you have pleaded guilty and you have no relevant prior convictions, although a refusal of a restricted licence just before this incident contributed to your agitated state. Your claim to be a police officer was true, although since 2017 you have been suspended from the police force. One of the factors which led to the suspension is difficulties with your psychological health. You have been diagnosed with post-traumatic stress disorder contributed to be a series of incidents you experienced in the police force, most particularly and assault in 2009. A dispute about your entitlements arising from the conditions which are said to be related to your employment has only recently been resolved. It was submitted on your behalf that your culpability for the offences for which you are to be sentenced is reduced by reason of your psychological or psychiatric condition. I was given a report from your general practitioner, Dr Tredinnick. The claim to reduced culpability was not accepted by the prosecution. As a result, I sought a report from the Chief Forensic Psychiatrist who delegated Dr Mike Jordan to prepare it. Dr Jordan’s report is dated 20 August 2020. He had access to your health records, details and camera footage of your offences, Dr Tredinnick’s report, and he interviewed you. His report is detailed and it is not possible or necessary to repeat all of it. He describes the treatment you have sought and received from your general practitioner, psychologist and private psychiatrists, as well as, at one stage, specialist psychiatric treatment in Victoria and treatment following admissions following a number of intentional overdoses, particularly since 2017. He accepts that traumatic incidents you experienced in the police force likely contributed to your

PTSD. You also display facets of personality disorder with traits of anti-social, borderline, histrionic and narcissistic personality traits. You exhibit symptoms of hypervigilance and reckless and self-destructive behaviour. These provide context, but the most significant factor which precipitates your behaviour, including these offences, is substance abuse, especially alcohol. When committing these offences, you were highly intoxicated. You claim no memory of your conduct, but Dr Jordan attributes that to your intoxication rather than some dissociative state arising from your mental health. You have sought some treatment for alcohol and drug abuse but you continue to heavily abuse alcohol. Your alcohol dependency and past misuse of illicit drugs is expanded upon by the author of the home detention assessment report. The gravity and extent of your alcohol addiction is such as to make you, in the opinion of the reporting officer, unsuitable for home detention. In my opinion there is an urgent need for your dependency to be seriously addressed, something you have not been able to do in the past despite assistance from the Alcohol and Drug Service.

Dr Jordan does not recommend a supervision order. You have already displayed a willingness to seek out treatment for yourself. Both he and Dr Tredinnick suggest that resolution of your employment dispute may improve your mental health status and hopefully that will now occur. However, whether or not that is so, I would sentence you on the basis that your mental health is relevant to sentence by providing a context to your behaviour, but it reduces your culpability only to a very limited extent. Balanced with that is what I see to be a very real need to protect the public from your bizarre and unpredictable behaviour. You display a real interest in dangerous knives. Before going out on this day you armed yourself with, on my count, six knives of various sizes and types. You produced five of them. One remained concealed until you were searched. It is not suggested that you threatened to use the knives against the three young people you confronted, only against yourself, but it must nevertheless have been a highly confronting experience for them. Other members of the public saw you wandering around brandishing knives and were understandably disturbed and frightened by it. You then used a knife to threaten the police. Having viewed the images from the body worn camera I am satisfied that you did not present an immediate threat of physical injury to the police, however that was largely due to their good work in de-escalating the situation. They are to be commended for their patience and restraint. You, more than most, should know the potential consequences of such threats to police and the need to protect them and vindicate their authority.

Only the two knives initially seen by the public and the three young persons are the subject of the indictable offence. Another knife was used to threaten the police officers. The remaining knives are the subject of the charge under the *Police Offences Act* which is, as serious as it may seem, is punishable only by fine.

I regard your conduct as so serious as to justify a sentence of imprisonment, to serve as a warning to you and others of the consequences of acting in this way and in that way to protect the public. The task of sentencing you is made more difficult by your unsuitability for home detention. However, I have decided that actual imprisonment is not, at this stage necessary. I will wholly suspend the term I am about to impose as an incentive for you to not re-offend. However you must clearly understand that it will be a condition of that sentence that while it is in force you must not commit any offence punishable by imprisonment. If you breach that condition then the term I am about to impose must be activated unless that is unjust. Any repetition of conduct like this would almost certainly result in prison.

Stephen Burton, you are convicted on each count on complaint 35861/19. I order that the two large knives seized from you on 27 February 2020 are forfeited to the State. On count 4 you are fined \$250. On the remaining counts I impose one sentence. You are sentenced to imprisonment for four months wholly suspended for 18 months from today