

Mr Shaw, the defendant, has pleaded guilty to one count of committing an unlawful act intended to cause bodily harm. The particulars alleged are that on 12 December 2019, with intent to disfigure, disable or to do grievous bodily harm to Kye Greenland, he wounded or did actual bodily harm to Mr Greenland by punching and/or striking him to the face with a bat. The facts are that Mr Greenland is the maternal uncle of the defendant. The defendant has a sister who, of course, is the complainant's niece. In December 2019, the complainant lived with his mother at her house in Bridgewater, along with the defendant's sister. As at 12 December 2019, the defendant had also been staying at the house and there was some tension between the complainant and the defendant about that, with the complainant apparently not happy with the arrangement. The complainant had stayed elsewhere on the previous night. In the early afternoon, having been home for about an hour, he walked into the hallway of the house and saw the defendant. The defendant was holding a baseball bat. The complainant asked him what he was doing there. The defendant made no response but hit out at the complainant striking him two or three times to the head. The complainant lost consciousness, waking up sometime later on the floor, still in the hallway and covered in blood. The defendant had gone. The complainant found that his vision was affected and he had to crawl to the bathroom to find a towel to stop his head bleeding. The injuries caused him to vomit in the bathroom. He made his way to the kitchen by feeling his way down the hallway. He waited there until his mother came home. He was eventually taken to the hospital for medical treatment. Examination revealed what is described as an orbital floor fracture of the cheekbone. That did not require any surgical intervention. He was also found to have two wounds to the forehead that required stitching, and a 3cm superficial wound over the right cheek that also required stitches. He had bruising to his sternum and to both eyes. His right eyelid was swollen to the extent his eye was closed. Later, during a Facebook Messenger conversation with a family member of the complainant, the defendant mocked the complainant, boasted of hitting him with the bat and saying "I should of killed the little girl bashing dog. Just wait till I see him again. I promise it will be a knife not a bat."[sic] A few days later the defendant posted a comment on Facebook consisting of abuse directed towards the complainant, again calling him "A girl bashing dog" and promising that the next time the complainant would be in hospital fighting for his life; saying "Next time I'll kill ya". The day after this incident the defendant was arrested and interviewed. He made some admissions but claimed he was asleep and that when he woke up he found the complainant standing over him; the complainant told him to get out of bed or he would get a knife and slash him. He also claimed that the complainant punched him to the back of the head. These things are not accepted by the Crown, and are not now asserted by the defendant. He admitted to police punching the complainant a few times in the face, a maximum of six, but did not admit using a baseball bat or other weapon. He said the complainant had assaulted his sister and mother. I have a victim impact statement of the complainant dated 22 March 2021 along with photographs of the injuries. The photographs depict quite serious looking facial injuries particularly around the right eye. The complainant said he had severe swelling, pain and discomfort for several weeks. He says his vision has deteriorated, and that he may need surgery in relation to his right eye. He has had problems with concentration and memory loss, and to this point he had not been able to drive. He previously had symptoms of PTSD which had been controlled but as a result of this incident he has suffered a relapse and he is on antidepressant medication. He has difficulty sleeping and finds it hard to go back into the house.

The defendant is now 20 years old; he was 18 at the time. When he committed this offence he had a conviction for destroying property for which he was fined. About three months after this incident with which I am dealing, he committed the crime of aggravated armed robbery, and on 23 July 2020, was sentenced by a judge of this Court to three years' imprisonment backdated to 28 February 2020, 12 months of which were suspended on conditions. One condition required submission to supervision of a probation officer for two years upon release. He was eligible for parole after having served 12 months. Because of the present outstanding crime, no application for parole has been made which means he has now been in custody for some 15 months. These serious offences committed by a person of the defendant's age have to be put in the context of his upbringing. He has had a very difficult life. Because of exposure to parental drug abuse, alcoholism and violence, he was put in foster care. His immediate family members are no strangers to imprisonment. He had various foster families with no particular difficulty, with the longest placement being for three years. That ended through no fault of his own, but it made him effectively homeless from a very young age. As is common for people of that age in that situation, he started to use illicit drugs in many forms in his teens and became heavily addicted to cannabis and methylamphetamine. Daily use of 'Ice' was described as the primary factor which led to the later crime for which he has been dealt with. The defendant suffers from dyslexia and ADHD. In spite of these difficulties he completed grade 10, and has good literacy and numeracy skills. He did get on well with his grandfather who provided him with support. It was submitted that he has the capacity to find and maintain employment if provided with the opportunity and ongoing support. As to the present offence, his grandfather unfortunately died about three months beforehand. Methylamphetamine use was a coping mechanism. Having no stable accommodation, the defendant, as I understand it, often stayed at the complainant's house, which caused tension as I have indicated. In the days beforehand, the defendant had been told the complainant was physically abusive to his sister. It is put that that this was at least his belief, although he accepts that it does not in any way justify his conduct. I was told that he has found imprisonment extremely difficult. He has suffered mental health issues and is in a unit, the security measures of which equate to maximum security.

In general terms, this particular crime is a very serious one. It is made up of an unlawful act carried out with a specific intention to cause serious harm. In this case, there is the use of a weapon. A further aggravating factor is that the complainant was left unconscious and without assistance. The injury was serious and there are ongoing consequences. There was a very significant risk of much more serious injury. There is no evidence of remorse but the defendant is to be given some credit for the practical value in the plea of guilty. I take into account the defendant's age and background. Of course, the more serious the crime, the less weight is to be given to factors relevant to youthful offenders. However, some recognition of those factors is due. I take into account that this crime was committed before the one for which he is presently serving a sentence, and I take into account the time spent in custody on that subsequent crime.

Mr Shaw, I have set out the facts and what I see to be the relevant considerations. Any sort of violence is inexcusable, but this level of violence must be completely condemned. You are convicted and sentenced to two years' imprisonment cumulative to the sentence presently being served. I suspend the execution of 12 months of that sentence on condition you commit no offence punishable by imprisonment for a period of two years from your release. I order that you not be eligible for parole until you have served one half of the operative term.