

Mr R, you have pleaded guilty to 2 counts of persistent family violence.

Each crime was committed against a woman with whom you were in a long-term significant family relationship. The period over which each crime was committed is almost coincident with the entire duration of the relationship. The relationships were consecutive and extended in aggregate over a period slightly in excess of seven years. A common feature and the context in which each crime was committed, was your approach to the relationship. In particular, there was a continuous pattern of coercive and controlling behaviour, where control was achieved by regular physical, emotional and psychological abuse. The emotional and psychological abuse included derogatory comments in respect of appearance and capacity to perform household tasks, isolation of the complainant from family and friends and a continuous and aggressive assertion of dominion and authority. The physical abuse was characterised by regular and repeated acts of physical and sexual violence. In general terms, these acts of violence were often linked to your response to the refusal or perceived failure of the complainant in question to meet your demands or expectations. In this sense, you used physical violence as a further form of coercion for the purpose of achieving your desired level of control.

The first crime in time was committed against a woman, whom you married during the course of the relationship. It was committed between May 2008 and January 2012. You were aged between 23 and 27 during that period. The complainant was five years younger than you. The controlling and emotionally abusive pattern of behaviour started very early in the relationship and continued throughout its duration. The physical abuse preceded the commission of the crime, commencing in late 2007 or early 2008. The crime is constituted by eight separate unlawful family violence acts, but the overall context is that violence of the nature exemplified by these acts occurred on a regular and repeated basis throughout the relationship.

The particular acts involved seven instances of assault and one rape. The assaults included putting your hands around the complainant's throat and choking her until she lost consciousness, an occasion when you kicked her to the head and punched her legs after she had fallen from a motorcycle that you were driving, striking her during an argument with a vacuum pole and when she tried to escape from you by locking herself in the toilet, breaking in, grabbing her around the head and ramming her head repeatedly into a wall. On another occasion, you pushed her causing her to fall over a couch, thereby injuring her finger. The last occasion constituting the crime involved you punching the complainant to the head and legs in front of your children. They were aged four and one at the time. A number of the assaults occurred while the complainant was pregnant. She regularly suffered injury in the form of bruising and has also suffered permanent deformity of her finger as a result of the assault in question.

The particularised rape occurred after you had punched the complainant in the head during an argument. She was distressed and went to bed. You then vaginally raped her, despite her clearly communicating to you that she did not agree to have sex with you. The complainant also physically resisted you but you used your greater physical strength to overcome this resistance. Your response to the complainant's verbal and physical resistance was to make it clear to her that you were sexually aroused by her lack of consent. Conduct of this nature was repeated on a number of subsequent occasions. I regard the commission of this unlawful act in these circumstances as aggravating to a considerable extent the objective seriousness of the crime and

your moral culpability for it. Your statements to the complainant that you were sexually gratified by her lack of consent was obviously designed to remind her of the futility of her resistance and reinforce your assumption of absolute control and dominion over her. It communicated to her that you had no compunction in taking advantage of your physical dominance to strip away and deny her bodily integrity and self-respect. It was demeaning and compounded the existing cruelty and violence of the physical attack.

The unlawful family violence acts constituting this crime did not occur in isolation. You regularly assaulted the complainant in a similar way, including by choking to the point of unconsciousness, including at times when she was pregnant. Further, there were a number of other occasions when you would commence and continue sexual intercourse despite the complainant clearly communicating her lack of consent.

The abuse continued despite the issue of a police family violence order about 18 months before the end of the relationship.

Your relationship with the second complainant commenced in March 2012 and concluded in September 2015. This crime commenced in September 2012 and continued until the end of the relationship. The complainant had a son from a previous relationship who was six at the commencement of the relationship with you.

Your behaviour throughout this relationship exhibited all of the controlling and abusive features that characterised the relationship relevant to the first count. There was also ongoing physical and sexual violence. The crime is constituted by 14 unlawful family violence acts, consisting of 11 acts of assault, 2 acts of assault on a pregnant woman and one rape. Once again, these unlawful acts did not occur in isolation, but rather exemplify the persistent pattern of violence that was perpetrated by you throughout the relationship.

The unlawful acts, in the main, consist of violence administered spontaneously and without warning in circumstances in which you had become angry or frustrated because you believed that the complainant was not complying satisfactorily with your instructions or expectations. They include the following:

- An occasion when you kicked the complainant in the back as she was getting out of bed, pushing her forward and causing her to hit her head and back on furniture. It was common for you to push or kick her out of bed and this was often associated with you becoming angry because she was not meeting your expectations in respect of the regular massages demanded of her by you.
- During a social occasion in the course of a visit to Queensland, you accused the complainant of infidelity, verbally abused her and then physically attacked her by pushing her, ripping her dress down and then punching her to the side of the head, knocking her to the ground. The complainant suffered dizziness, a split ear, and bruises and grazes to her legs and arms. She subsequently sought medical attention, complaining of ongoing dizziness. This assault, and the verbal abuse which accompanied it, occurred in the presence of other people.
- Shortly before Christmas 2012, you became angry with the complainant, pushed her to the ground and while she was on her knees picking up spilt food, you punched her to the right

eye. The metal rim of her sunglasses was forced by the punch into the area around her eye, causing bruising.

- There were a number of occasions when you pushed the complainant downstairs. On the particularised occasion in 2013, you pushed her from the top of the staircase in the house in which you lived while she was carrying a basket of washing. The complainant suffered a sore back as a result of this assault.
- In September 2013, during the course of an argument, you grabbed the complainant by the throat and held her against an architrave. You then threw her into the hallway. Later that night, while the complainant was giving you a massage, you pushed her off the bed and onto the floor.
- Later in the same month, you initiated a conversation with the complainant during which you complained about her performance in the relationship and told her that you intended to have sex with other women. Understandably, she became upset. You then physically attacked her including by pushing her, kicking her when she was on the ground, grabbing her by the hair and pushing her head into a toolbox and then, when she attempted to get up from the ground, punching her in the face. You continued to verbally abuse her and then you raped her. Your conduct during the course of the rape was particularly violent, prolonged and degrading. I do not intend to describe all of the detail, but you used your physical strength to overcome the physical resistance of the complainant and forced your penis into her vagina from behind, while you were on top of her, holding her by the hair and pushing her head into the bed. You continued to do this despite the fact that she was clearly upset, crying and telling you to stop.
- On an occasion after this, in an act of petulance and anger, you threw the complainant into a cupboard with enough force to cause the cupboard door to be pushed inwards. The complainant suffered significant pain in the vicinity of her tailbone and had difficulty walking. She sought medical assistance for this injury.
- When the complainant was eight weeks pregnant, you became angry with her and struck her a number of times by pulling a car door into her back. This assault was witnessed by the children.
- When the complainant was 25 weeks pregnant, while you were in the shower together, you pinned her against the wall and grabbed her around the throat. This occurred as you were making comments to her which expressed your anger that she had continued with the pregnancy. The violence on this occasion was prolonged. It included you punching the door next to the complainant's head, then grabbing her and throwing her across the room. Outside the bathroom, you grabbed her by the throat with one hand and pinned her against a bookcase, and tried to lift her up by the throat. You were verbally threatening to kill her. You grabbed her stomach and squeezed it, and then grabbed her shoulders and head-butted her. You then punched her and pushed her so that she landed on her back. The complainant hit her head on furniture or the wall, and lost consciousness. She was subsequently taken by her mother to hospital for treatment. The complainant was understandably concerned about the effect of this assault on the pregnancy. The injuries observed at the hospital included swelling, bruising and bleeding in her eye, although tests confirmed that the pregnancy had not been impacted by this violence.

- Approximately eight weeks after the child's birth, you pushed the complainant while she was holding the baby, during an outburst of anger and verbal abuse. As she walked away from you, with the child in her arms, you threw a half empty bottle at her. Fortunately, the bottle missed both her and the child
- When the child was about seven months of age, you became angry and frustrated because of your inability to correctly adjust the child's car seat. Eventually, the complainant took the child from the car and started to carry him into the house. You drove the car forward into her, jamming her leg between the vehicle and a wall. You then rolled the car back, freeing her. The child was distressed but not hurt. The complainant suffered grazes and bruising to her leg.
- The final particularised occasion occurred on the day that the complainant left you and reported your conduct to police. During an outburst of anger, again accompanied by verbal abuse and in the presence of the children, you kicked the complainant while you were holding a child in your arms. The child became distressed. A short time later you threw the complainant to the ground, causing extreme pain to her back and loss of movement in her legs.

The ongoing violence towards the complainant and her consequent injuries are documented in the medical records of various treaters consulted by the complainant over the years, including, of course, her general practitioner. Among her reported injuries is ongoing back pain. In 2015, the complainant was diagnosed with a disc protrusion with nerve root impingement in her lumbar spine. A specialist has expressed the opinion that her back injuries are likely to have resulted from the ongoing assaults by you, including the last assault when you threw her to the ground. She has required surgery for the back injury, and still experiences ongoing and debilitating symptoms.

I have considered the impact statements of both women closely. I do not intend to repeat their eloquent description of the ongoing impact in significant detail, but it is clear that your crimes have had a profound and long-term effect on both. It is also clear that their lives have been deeply and irreversibly changed, and that each relives the trauma constantly and vividly. The ongoing impact has included physical, psychological and emotional consequences, and has affected their relationships with others and their respective capacity for employment. Both express their concern for the ongoing impact of your conduct on their children, and relate the behavioural and psychological issues, on the part of the children, which manifests this impact. Your crimes are heavily aggravated by the fact that this repeated violence was perpetrated in front of and sometimes directly involved one or more of the children. The long term impact of family violence on both adults and children is well documented and established, and continues to be better understood by the courts and the wider community. The impact described by each woman is consistent with what would reasonably be expected as a result of long-term and continuous violence of this nature perpetrated by you against each of them.

A further aspect of the impact on your children in particular, is that irrespective of what personal changes you have made and will make in the future with respect to your behaviour, your commission of these crimes has already and will continue to have the consequence of depriving each child of the paternal support and example which he or she was and is entitled to expect from you. Your actions have permanently affected the relationship of each child with you, at the very least by your enforced separation from them, but also I suspect by their experience of your

criminal conduct. Your counsel says that this is a cause of great sadness to you, but of course, this has come about solely because of your selfishness and criminality. Whether you can salvage anything from those relationships is presently unclear, but the damage already done to those children must be counted among the terrible consequences of criminal conduct of this kind.

There are several other aggravating factors with respect to your criminality across both crimes. The repeated and consistent nature of the violence, within the context of ongoing emotional and psychological abuse, exacerbates the experience of each complainant and increases the long term impact upon them. Both describe the unpredictability and inconsistency of your moods and treatment of them, and the consequent state of anxiety and apprehension that this produced. The sexual violence was particularly degrading and humiliating. In respect of the several occasions when you applied pressure to the neck or throat of the complainant during assaults, it is now well documented and accepted that acts of choking, particularly in a family violence context, are extremely dangerous and likely to be productive of long-term psychological and physical impact. A number of the assaults against both women were perpetrated while the complainant was pregnant, and in respect of the second complainant, on the occasion when she was 25 weeks pregnant were directed at her pregnancy, with all of the risk, distress and ongoing anxiety inherent in such a crime.

You are now 36 years of age. You have no prior convictions of significance, but you have been subsequently convicted of breaching a police family violence order made for the protection of one of the complainants. Given the long term nature of your criminal conduct, the absence of prior convictions has little effect on the assessment of your character, or your moral culpability for the offending. Your parents separated when you were very young and a significant portion of your childhood was spent with your father, who inflicted continuous and significant violence on you over many years. Despite this, you completed your education successfully and have a strong employment record in adult life. You have been in your current relationship for approximately five years, and your counsel informs me, and indeed your partner informs me through a written reference, that she speaks highly of your kind and supportive approach to their relationship. She has not experienced any of the conduct exemplified by your commission of the crimes to which you pleaded guilty. I have received numerous positive attestations to your character, from people who have known you for some time, through your current relationship and through your work. They consistently describe a person of positive and strong character, who is loyal, kind and caring. On the face of it, the descriptions of your character by your current partner and those who have provided references, seem irreconcilable with that demonstrated by your criminal conduct against the complainants over many years. Your counsel submits that I should accept that you have demonstrated capacity for and, indeed, achieved actual change. You have sought counselling and completed courses concerned with remediating your abusive behaviour. However, I note also that some of the references describe the authors' positive experience and perception of you at a time coincident with your commission of the crimes. This would suggest that you are capable of duplicitous behaviour, an observation which is not inconsistent with the overall experience of you described by each complainant.

Having said this, I think that you have demonstrated some insight and commitment to change, not only by the seeking and undertaking courses and therapy, but also by conducting yourself in a positive way in your current relationship. A further matter which tends to confirm this conclusion and will be taken into account in your favour is your plea of guilty. It must be observed that this plea came at a relatively late stage in the proceedings, and its utilitarian benefit is limited because the complainants had already been briefed for trial and were understandably

traumatised by having to relive these events through that process. However, my impression is that your decision to plead guilty seems to have arisen from a conscious and deliberate decision by you to accept and vindicate the allegations made by each complainant, and to subject yourself to punishment by way of atonement for your treatment of them. I think, therefore, that the plea does have some mitigatory benefit.

Your counsel correctly does not shy away from the serious nature of this offending nor the need for your punishment to reflect the principles of denunciation, general deterrence and vindication of the complainants. This approach is clearly appropriate. The family violence which constitutes each crime and the context in which it was committed was serious, entrenched and enormously damaging to both women and their children. Irrespective of what you have done since or what you hope to do in the future, this conduct deserves severe punishment. Family violence is quite rightly of great concern to the community. It deserves condemnation and will not be tolerated by the courts or the community. Because of the insidious nature and controlling effect of persistent family violence, it often does not come to light until the victim has endured many years of private suffering, and that is the case here. The sentence to be imposed on you cannot, of course, replace the lost years and rectify the consequences of that suffering, but it must at least offer a proportionate response, and in particular deter those who might otherwise consider themselves able to act in a similar way with impunity.

Your counsel reminds me, again correctly, that there is still a place for mercy in sentencing, and that you are genuinely committed to and capable of rehabilitation. It is submitted that I should not impose a sentence which would crush any incentive for you to pursue such a course. This, of course, is a legitimate submission and describes a further sentencing consideration which must be given appropriate weight. At the end of the day, the sentence must balance all of these considerations. Further, although the sentence must respond and be proportionate to the aggregate of the individual unlawful family violence acts as if they were separate crimes, the principles of totality necessarily require some adjustment to the final sentence.

TJR, you are convicted of the crimes to which you have pleaded guilty. You are sentenced to imprisonment for a global term of 12 years. That sentence will commence from the date that you were remanded in custody, which is 27 May 2021. It is appropriate, particularly to reflect your plea of guilty, lack of prior convictions and commitment to rehabilitation, to provide you with the opportunity for parole at the earliest possible time. Such an order, of course, does not mandate your release on parole at that time, but it will provide the Parole Board with the opportunity to respond to any demonstrated commitment to rehabilitation and reform. Accordingly, I fix a non-parole period of one half of the sentence.

Pursuant to s 13A of the *Family Violence Act*, I direct that each crime be recorded on your criminal record as a family violence offence.

I make a family violence order for the protection of each complainant in the same terms as the interim order made in respect of that complainant on 20 August 2019. Each order will remain in force until varied or revoked by a court of competent jurisdiction.

I decline to exercise my discretion to make an order under s 7 of the *Community Protection (Offender Reporting) Act*. I am satisfied that given the length of the sentence and the possibility that the latter part of the sentence will be served while you are in the community on parole that the sentence is adequate to obviate any risks as defined in that section that may arise.